

OHIO'S WASTEWATER DISCHARGE PERMIT PROGRAM

Ohio Environmental Protection Agency

(Prepared for program approval pursuant to  
Section 402(b) of the United States Public  
Law 92-500)

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## 1.0 Introduction

This document is the application submitted by Governor John J. Gilligan for authority to administer the National Pollution Discharge Elimination System (NPDES) in the State of Ohio. The application is made to the Administrator of the United States Environmental Protection Agency (U.S. EPA) through the Regional Administrator, Region V, U.S. EPA. When the application is approved, the Ohio Environmental Protection Agency (Ohio EPA) will be solely responsible for issuing NPDES permits to almost all point source dischargers to waters of the state, the exception being federal facilities discharging to waters of the state.

The NPDES program was created by the Federal Water Pollution Control Act, 1972, FWPCA, 1972. Its final goal is to eliminate the discharge of pollutants into navigable waters by 1985. The mechanism for controlling point source dischargers in order to meet this goal is the NPDES discharge permit. After December 31, 1974, this permit will be required of every point source discharger as defined by Ohio EPA regulations EP-31-02, Appendix 3.4. When an applicant receives an NPDES discharge permit, he is given the conditions under which he must operate in order to discharge to waters of the state. A permit will specify the amount of pollutants that may be discharged, the monitoring and reporting that must be made about the discharge, and, if necessary, a schedule for constructing the facilities necessary to control the pollutants in the discharge. Through the renewal process, every point source will be taken through a number of steps that are necessary in order to meet the 1985 goal.

Section 402(b) of the FWPCA, 1972, allows the Administrator of U.S. EPA to delegate the authority to administer the NPDES program. Before the authority can be delegated, the Ohio EPA must demonstrate that it meets the necessary requirements. These requirements are contained in Section 402(b) of the FWPCA, 1972, and in regulations 40 CFR 124 et. seq.

This document is written to meet these legal requirements. It is composed of two sections. One section is the program description. This section details how the Ohio EPA will administer the NPDES program. It includes descriptions of the Ohio EPA organization, the permit procedures, and resources devoted to the permit program. Two important parts of this section are the Ohio NPDES regulations and the Memorandum of Agreement between U.S. EPA and Ohio EPA. The regulations detail how the NPDES permits will be written. The Memorandum of Agreement details the responsibilities of the Ohio EPA and U.S. EPA in the NPDES program.

The second section of the document is the Attorney General's statement. This statement certifies the Ohio EPA as having sufficient legal authority and satisfactory regulations in order to administer the NPDES program within federal requirements. It further certifies that no person issuing NPDES permits is subject to a conflict of interest as defined by federal regulations.

## 2.0 State Program

### 2.1 Description of State Responsibilities

Basic authority for water pollution control in Ohio is Ohio Revised Code Chapter 6111, as amended. Chapter 6111 was amended in 1972 and again in 1973 to institute a discharge permit system compatible with the National Pollutant Discharge Elimination System (NPDES) initiated by the 92nd Federal Congress through the enactment of the Federal Water Pollution Control Act of 1972 (PL 92-500) for all persons discharging wastes into the surface or ground waters of the state, or onto the ground.

Ohio Revised Code Section 6111.04 now provides that no person shall place any pollutant, i.e., sewage, industrial waste, or other waste, into any waters of the state, or place such matter in a location where it causes such pollution, unless he holds a valid and unexpired permit from the Ohio Environmental Protection Agency (Ohio EPA) or unless an application for renewal is pending.

Revised Code Section 6111.03 (J) further provides that all discharge permits issued by the Ohio EPA must comply with all requirements of the Federal Water Pollution Control Act of 1972 and regulations adopted thereunder. In addition, no permit shall be issued if the Administrator of the U.S. EPA objects in writing to the issuance, if the Secretary of the Army determines in writing that anchorage or navigation would be substantially impaired by the proposed discharge, or if a discharge of radiological chemical, biological warfare agent or high-level radioactive waste is proposed. All persons discharging or proposing to discharge sewage, industrial waste, or other waste into surface waters of the state will be issued a discharge permit pursuant to PL 92-500, Chapter 6111, and the procedural and substantive rules of the Ohio EPA. Persons injecting into wells any substance that may pollute waters of the state must apply to the Ohio EPA for an NPDES permit. In addition, persons injecting water, gas, or other material into a well to facilitate the production of oil or gas or for disposal purposes must obtain a permit from the Ohio Department of Natural Resources in compliance with Ohio Revised Code Section 1509.081.

NPDES permits issued by the Ohio EPA for all discharges will contain appropriate effluent limitations and restrictions and schedules of compliance, and other conditions deemed necessary by the Ohio EPA to give adequate protection to waters of the state. No permit will be valid for more than five years. Monitoring and other reporting requirements will be included in the permit whenever necessary. Mixing zones are already provided in the Ohio Water Quality Standards, EP-1. (Appendix 3.4)

The Ohio EPA and the U.S. EPA, Region V, have arrived at a Memorandum of Agreement, which outlines the procedures by which Ohio will implement the 40 CFR 124 guidelines of U.S. EPA. This Memorandum will be signed by the Director of the Ohio EPA and constitutes an official part of this program submittal. The Agreement contains the following procedures which the Ohio EPA will pursue as part of its implementation of the NPDES permit program:

- a. Receipt and use of Federal data
- b. Transmission of data to U.S. EPA Regional Administrator
- c. Public access to information
- d. Draft permit objections
- e. Schedules of Compliance in issued NPDES permits
- f. Transmission to U.S. EPA Regional Administrator of proposed and issued NPDES permits
- g. Monitoring
- h. Modification, Suspension, and Revocation of NPDES permits
- i. Enforcement
- j. Control of disposal of pollutants into wells

Ohio law authorizes the Ohio EPA to adopt regulations to carry out the functions and purposes of the law. The Director has adopted regulations entitled "Chapter EP-31, Ohio NPDES Discharge Permits", which set forth provisions governing NPDES discharge permits. These regulations will include:

1. A requirement that all persons discharging wastes into waters of the state shall apply for NPDES permits from the Ohio EPA
2. Exceptions
3. Criteria for issuing permits
4. Description of compliance schedules
5. Description of conditions that will be included in permits
6. Provisions for transfer, revocation, termination, and modification of permits

Procedures whereby permits are granted and denied, as well as appeal procedures, are set forth in Ohio Revised Code Chapter 119, the Administrative Procedure Act; in Chapter EP-40, Procedural Rules of the Ohio EPA; in O.R.C. Chapter 3745; and the Rules of the Environmental Board of Review.

In addition to the state responsibilities for the Ohio Wastewater Discharge Permit System described above, the Ohio EPA has submitted for approval by the U.S. EPA a continuing planning process and water quality standards, as required by Section 303 of PL 92-500.

The Ohio Attorney General has prepared an "Attorney General's Statement" as required by Section 402(b) of PL 92-500 outlining the authority of the State of Ohio to carry out the NPDES Wastewater Discharge Permit Program.

## 2.2 Organization and Structure of the Ohio EPA

The Ohio Environmental Protection Agency is a cabinet-level department whose Director is appointed by the Governor with consent of the Senate. It began operations on October 23, 1972, with personnel transferred from the Ohio Water Pollution Control Board, Ohio Air Pollution Control Board, Ohio Department of Natural Resources and the Ohio Department of Health. Since October, the Agency has grown and its statutory authority revised to meet the requirements of the NPDES program. Under existing law, the Ohio Environmental Protection Agency is responsible for all environmental protection programs of the state. It has sole state authority to administer the NPDES program.

To carry out the Agency's environmental programs, the organization has a functional structure. Most of the burden for the permit program is borne by the Divisions of Surveillance and Waste Management and Engineering. Other important functions are performed by the Divisions of Planning, Data and Systems, and Litigation and NPDES Permit Records. The organization chart, 2.2.2, shows the relationships of the various Divisions.

### Division of Waste Management and Engineering

The Division operates through four district offices with central office coordination. Personnel of this Division are responsible for determining the time needed for compliance with permit effluent limitations. When a plan is developed for dealing with the wastewater discharge, this Division is responsible for plan approval. Once the facility is operating, they are responsible for inspecting the facilities to insure proper operation and maintenance. The district offices have primary responsibility for establishing the compliance schedules, approving plans, and inspecting facilities. The central office coordinates district operations and reviews proposed permits for consistency with policy.

### Division of Surveillance

This Division operates through four district offices with central office coordination and technical support. The determination of allowable levels of pollutant discharge from a point source is one of the Division's responsibilities. Through a self-monitoring and field sampling program, the Division polices compliance with permit effluent limitations. To measure the effectiveness of the permit program, a water quality sampling program is carried out. The district offices are primarily responsible for determining permit conditions and following up on compliance monitoring. The central office develops the methods for surveillance, coordinates district activities and supports district operations.

### Division of Planning

This Division's primary concern is with the long-term effects of a permit and consistency of permits with water quality basin plans.

Division of Data and Systems

This Division supplies the data processing support needed to monitor compliance with permit conditions. The support requires the entry of application data and permit values into the computer system as well as entry of effluent reporting data and compliance reporting data. This Division will supply data directly to the General Point Source File (GPSF) of U.S. EPA.

Division of Litigation and NPDES Permit Records

This Division is responsible for the activities necessary to provide the required public notice, arrange the public meetings, collect the comments on proposed permits, and issue proposed and final permits.

Once a permit is effective, the Division will be responsible for receiving event reports required by the permit compliance schedule and monitoring the official records. The district operations are the initial contact for NPDES applications and are responsible for logging permits into the processing system. The central office coordinates district operations as well as keeps records on all public and adjudicatory hearings.

Director

The Director or his designated representative will issue each NPDES permit. The Director is legally responsible for the content of all permits.

## EXECUTIVE BRANCH / STATE OF OHIO

AUDITOR

ATTORNEY  
GENERALLIEUTENANT  
GOVERNOR

GOVERNOR

SECRETARY  
OF STATETREASURER  
OF STATE

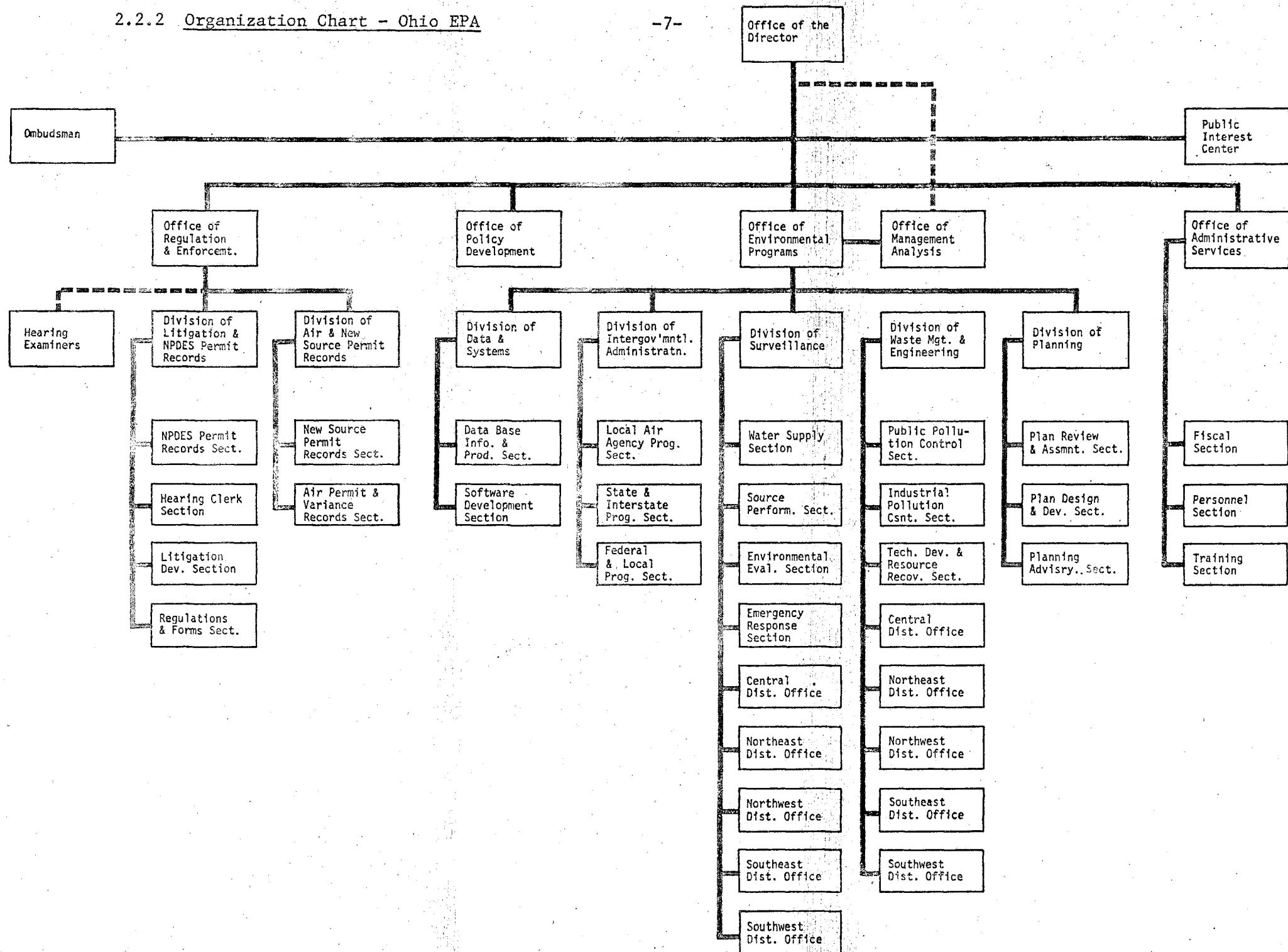
ELECTED OFFICIALS

Dept. of  
AgricultureDept. of  
FinanceDept. of  
HealthDept. of  
Natural  
ResourcesDept. of  
Econ. & Commun  
DevelopmentDept. of  
TransportationEnvironmental  
Protection  
AgencyDEPARTMENTS  
(directors appointed by governor)environmental  
board of reviewSEMI-INDEPENDANT AGENCY  
(members appointed by governor for 6 year terms)



## 2.2.2 Organization Chart - Ohio EPA

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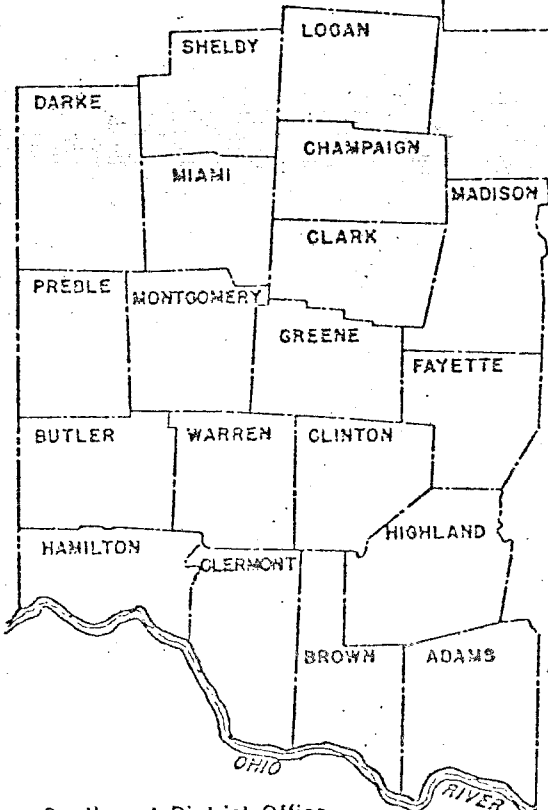
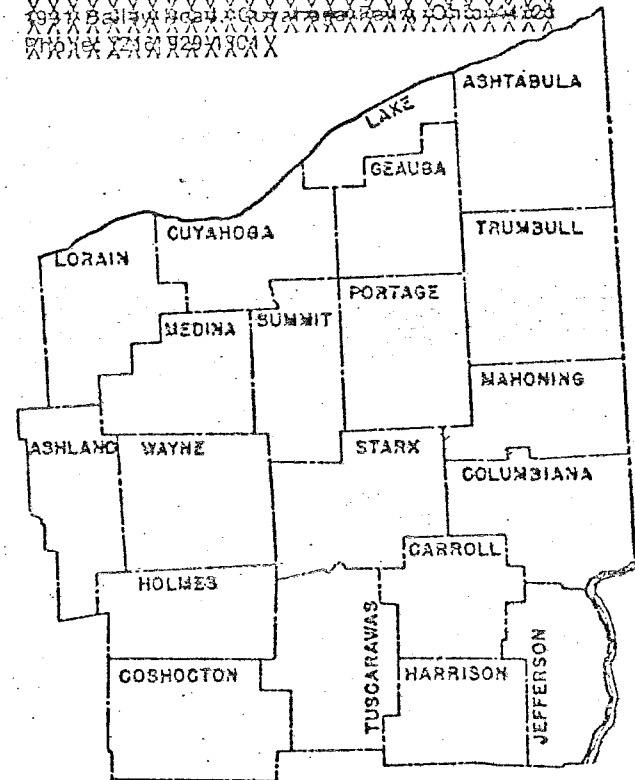
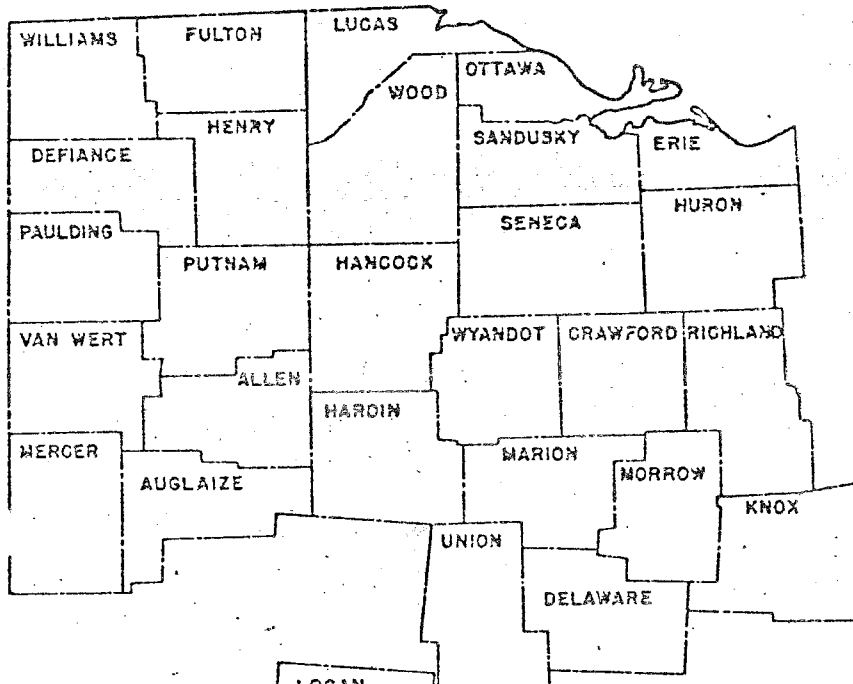
THE STATE OF OHIO  
Environmental Protection Agency  
Districts & District Offices

NORTHEAST DISTRICT OFFICE  
2110 E. Aurora Road  
Twinsburg, Ohio 44087  
Phone (216) 425-9171

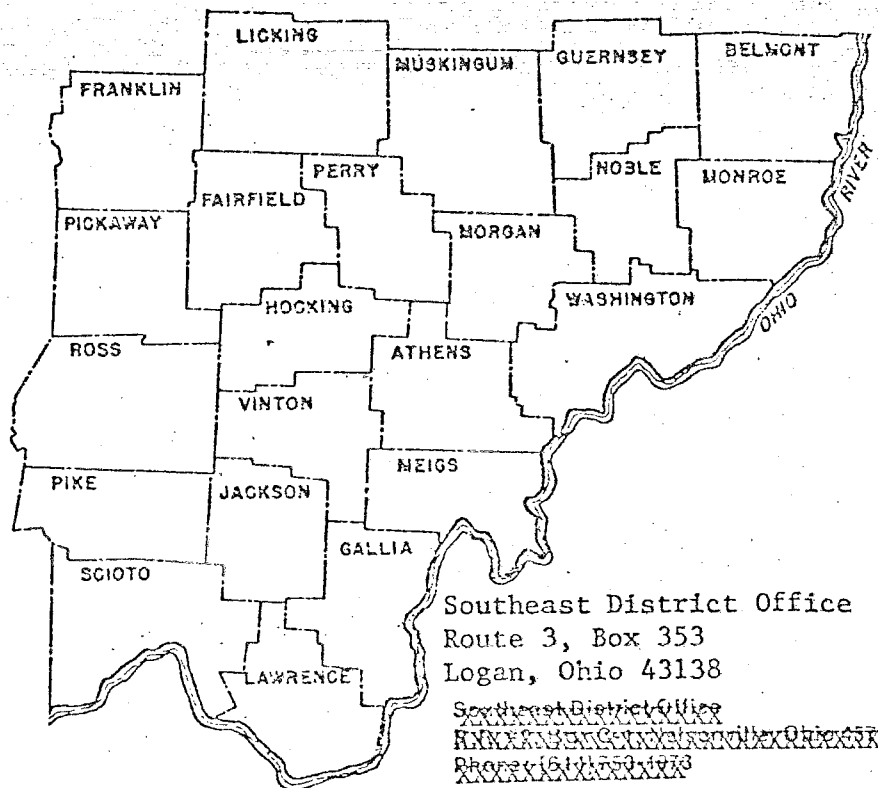
2.2.3

Northwest District Office  
111W. Washington St., Bowling Green, Ohio 43402  
Phone: (419) 352-8461

Northwest District Office  
191 E. Aurora Road, Aurora, Ohio 44202  
Phone: (216) 929-1041



Southwest District Office  
40 South Main St., Dayton, Ohio 45402  
Phone: (513) 461-3350 4670



Southeast District Office  
Route 3, Box 353  
Logan, Ohio 43138

Southwest District Office  
191 E. Aurora Road, Aurora, Ohio 44202  
Phone: (216) 929-1041  
Phone: (614) 385-8501

Five District Operation

After January, 1974, the Ohio EPA will reorganize its district operations to meet the requirements of a Governor's executive order on uniform districting of state agencies. The attached map indicates the new districts. For those Divisions with district offices, there will be five, rather than four, district operations.

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OHIO EPA

Southwest District Office  
40 South Main Street  
Dayton, Ohio 45402  
Phone: (513) 461-4670

Southeast District Office  
Route 3, Box 353  
Logan, Ohio 43138  
Phone: (614) 385-8501

Central District Office  
Columbus, Ohio

## 2.3 Permit Processing

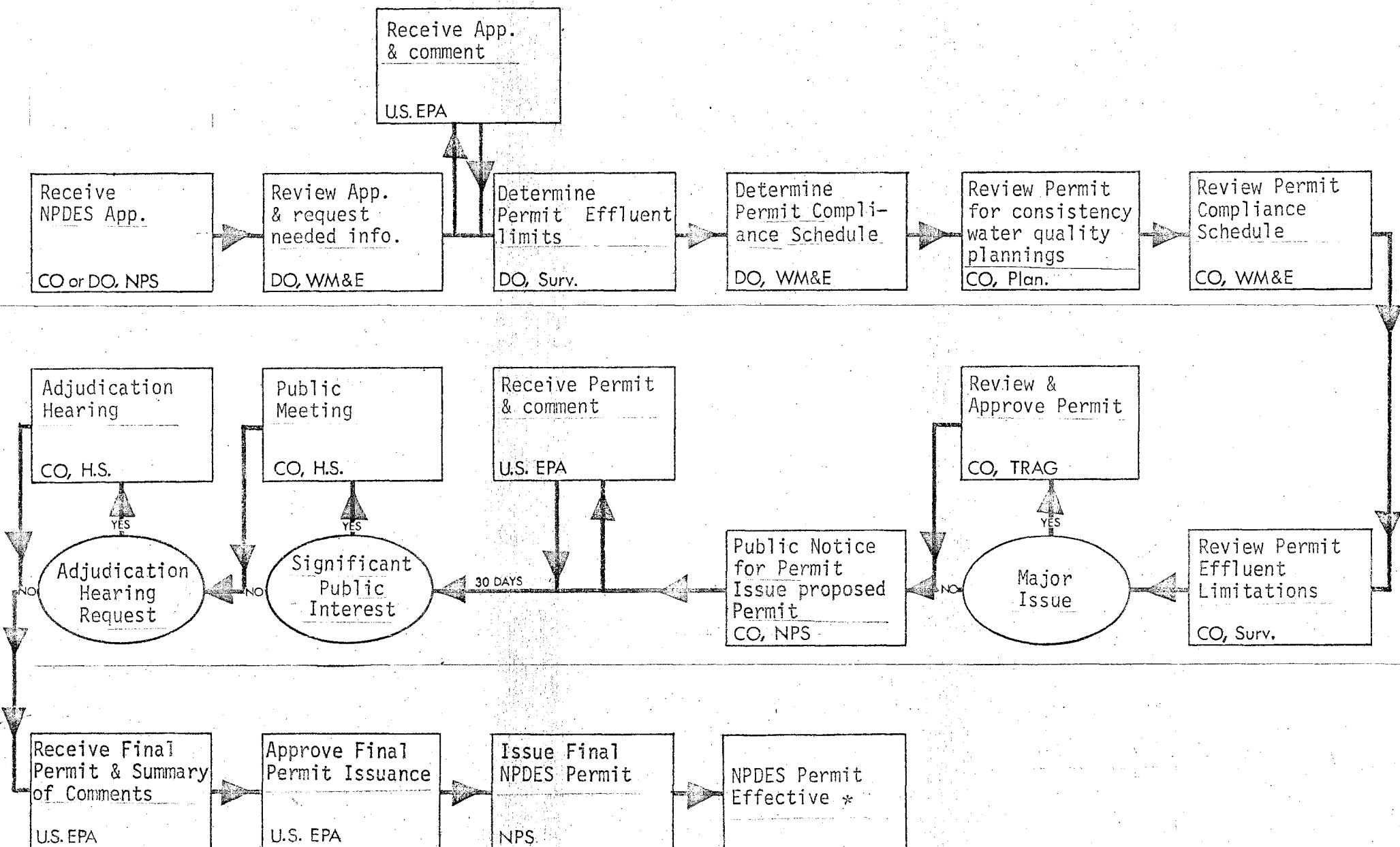
### 2.3.1 Permit Program Procedures

Procedures for processing permits call upon the skills of several different divisions. Each permit application is received by the district office representatives of the NPDES Permit Records Section of the Division of Litigation and NPDES Permit Records for logging into the permit monitoring system. In the district office, the Division of Surveillance is responsible for the effluent limits and the monitoring requirements. District office personnel in the Division of Waste Management and Engineering are responsible for determining application completeness, drafting the permit using Division of Surveillance input, determining compliance schedules and other special conditions. Central Office, Divisions of Surveillance and Waste Management and Engineering, reviews the draft permit for conformance with established policy and regulation. The Division of Planning reviews the permits for consistency with existing water quality plans. In cases involving a major source or a special problem, the permit will be forwarded to the Technical Regulatory Advisory Group for approval or resolution. When the permit has been completed, the Litigation and NPDES Permit Records Division is responsible for issuing the proposed permit and complying with public notice and public participation requirements. If the proposed permit is sent to an adjudicatory hearing, the Hearing Examiners section of the Office of Regulation and Enforcement will hear the case and make a recommendation to the Director. Based upon this recommendation and other considerations, the Director will approve issuance of a final NPDES permit by the Litigation and NPDES Permit Records Division.

When a permit is effective, the Division of Surveillance is responsible for monitoring the entity's compliance with the effluent limitations using a self-monitoring and field sampling program. The Division of Waste Management and Engineering is responsible for monitoring completion of construction schedules and proper operation and maintenance of waste treatment facilities. Providing the needed information for this compliance monitoring is the responsibility of the Division of Data and Systems. The Water Permit Information System developed by this Division will process the self-monitoring reports and compliance reports submitted by the permittee. Data received through these reports is compared with permit requirements and violations noted. In cases of violations, the Litigation Development section of the Division of Litigation and NPDES Permit Records, with the support of the Division of Surveillance and/or the Division of Waste Management and Engineering, is responsible for taking the appropriate action.

This abbreviated description gives the general outline for the attached flow chart of the NPDES permits.

## SIMPLIFIED NPDES PERMIT PROCEDURES



\*Ohio EPA will send two copies of issued permit to U.S. EPA.

ABBREVIATIONS ON BACK

Simplified NPDES Permit Procedures

List of Abbreviations

C.O.	Central Office
D.O.	District Office
WM&E	Division of Waste Management and Engineering
Surv.	Division of Surveillance
Plan.	Division of Planning
NPS	NPDES Permit Records Section, Division of Litigation and NPDES Permit Records
H.S.	Hearing Section, Division of Litigation and NPDES Permit Records
Director	Director of the Ohio EPA
TRAG	Technical Regulatory Advisory Group
U.S. EPA	Region V, U.S. EPA
EBR	Environmental Board of Review

## 2.3.2 Priority System for Permit Issuance

### General

The Ohio EPA will establish an implementation schedule to process all wastewater discharge permits within the time period specified in Public Law 92-500. It is the Agency's intention that permits will be processed and issued for point source discharges to the surface waters of the state or to deep-disposal wells by December, 1974. The number of permits to be processed during the available time is approximately 2700. This will require a processing rate on the average of 200 permits per month.

### Basis of Priority for Issuance

The Ohio EPA proposes to give priority to the issuance of permits based upon the following priority groupings.

1. Major dischargers
2. Dischargers to water quality segments in priority river basins (Great Miami, Maumee, Scioto, and Cuyahoga) and Lake Erie
3. Dischargers to effluent limited segments in priority basins
4. Dischargers to water quality segments in non-priority basins
5. Dischargers to effluent limited segments in non-priority basins

Some flexibility in the order of permit processing will be necessary because of delays caused by the need for public hearings, need for clarification of application data and other unavoidable circumstances. The Agency will make every effort to adhere to the proposed priority system.

### Major Dischargers

The Ohio EPA and U.S. EPA have jointly prepared a "major industrial dischargers" list which will form the largest part of the first priority group.

The Ohio EPA will issue permits to approximately 127 major municipal dischargers by June, 1974. Scheduled for completion by June, 1974 are all major dischargers in priority basins on the "major dischargers list" developed by Ohio EPA and U.S. EPA. Also scheduled for completion by June are all municipalities which received federal funding in fiscal 1972 and 1973 and all municipalities high on the priority list for funding in fiscal 1974.

### Dischargers in Priority Basins

The Ohio EPA intends to complete Section 303(e) basin plans for the Maumee, Scioto, Great Miami and Cuyahoga basins by June, 1974. Permits for major dischargers in those basins will be drafted by that time according to load allocations assigned as a result of reductions found through the 303 planning to be needed to meet water quality standards. To the degree possible, permits will be issued to dischargers to water quality segments in the priority basins before permits are issued to dischargers to effluent limited segments.



Dischargers in Non-priority Basins

Permits for dischargers outside the priority basins will be processed in general after major dischargers and dischargers to the priority basins. The order of priority within this category will be (1) municipal and industrial dischargers to water quality segments, (2) municipal and industrial dischargers to effluent limited segments, and (3) semi-public dischargers.

Major Discharger Priority

Within the first priority groupings of major dischargers, the following priority for issuance will be adhered to within the limitation of data availability.

Basis of Priority for Issuance

Municipal Permits

I. Major dischargers to water quality segments in priority river basins (Great Miami, Maumee, Scioto and Cuyahoga) and Lake Erie from Rocky River to the Chagrin River, Ohio River, Cincinnati area.

1 Akron	30 Hamilton Co., MSD, Muddy Creek
Archbold	Jackson
Bedford	Kent
Bedford Heights	Lima
Bellfontaine	MCD Franklin Area
Brecksville (Cuyahoga Co., S.D. #13)	Maple Heights
Bryan	Marion
Cleveland Easterly	Miamisburg
Cleveland Southerly	Middletown
10 Cleveland Westerly	Montgomery Co., Moraine #1
Chillicothe (Manor, Pyles Lane, Renick)	40 Napoleon
Circleville	Oxford
Columbus Jackson Pike	Perrysburg
Columbus Southerly	Ravenna
Cuyahoga Co., S.D. #6	Reynoldsburg
Dayton	St. Mary's
Delaware	Solon
Delphos	Springfield
Englewood	Summit Co., S.D. #15
20 Euclid	Sylvania
Fairborn	50 Toledo (Barrington Woods & Bay View)
Fairfield	Troy (Miami & NE)
Findlay	Twinsburg
Galion	Urbana
Greenville	Van Wert
Grove City	Vandalia
Hamilton	Washington Court House
Hamilton Co., MSD, Little Miami	West Carrollton
Hamilton Co., MSD, Mill Creek	58 Willoughby Eastlake

II. Major dischargers to effluent limited segments in priority basins.

Defiance  
Montpelier  
Piqua  
Sidney

III. Major dischargers to water quality segments in non-priority basins.

1 Alliance	55	Mansfield
Amherst		30 Massillon
Ashland		Medina Co., S.D. #100 Brunswick
Avon Lake		Medina Co., S.D. #500
		(Formerly Medina)
Barberton		Middleburg Heights
Bellevue		Montgomery Co. Beaver Creek #3
Berea		Montgomery Co. Sugar Creek Plant
Bowling Green		Newark
Brookpark		Niles
10 Bucyrus		North Olmsted
Cambridge		Norwalk
Campbell		40 Orrville
Canton		Painesville
Celina		Port Clinton
Conneaut		Salem
Coshocton		Sandusky
Elyria		Shelby
Fostoria		Struthers
Fremont		Tiffin
20 Girard		Upper Sandusky
Green Co., Little Miami Plant		Wadsworth
Hamilton Co., MSD, Sycamore Plant		50 Warren
Lake County S.D. #1 (Madison Plant)		Wilmington
Lake County Mentor S.D. (Formerly WMSD)		Wooster
Lakewood		Xenia
Lancaster		Xenia, Ford Road
Lorain		55 Youngstown
Mt. Vernon		

IV. Major dischargers to effluent limited segments in non-priority basins.

1 Athens	12	Marietta
Belmont Co. Sew. Auth. #1		New Philadelphia
Dover		Portsmouth
East Liverpool		10 Steubenville
Ironton		Urichsville
Lebanon		12 Zanesville

Industrial Permits

I. Major dischargers to water quality segments in priority river basins (Great Miami, Maumee, Scioto and Cuyahoga) and Lake Erie from Rocky River to the Chagrin River, Ohio River, Cincinnati area.

Allied Chemical Corp.	OX2-2-000445
Alloy & Chemicals	OX2-2-000017
A.O. Smith	OYE-2-000694
ARMCO Steel Corp.	OYE-2-000589
ARMCO Steel Corp.	OYE-2-000590
Ashland Oil Co.	OX5-2-710287
B.F. Goodrich Co.	OYD-2-000403
Campbell Soup Co.	OX5-2-710467
Cincinnati Oil & Gas	
Beckjord Station	OYE-2-000540
Miami Fort Station	OYE-2-000541 10
West End Station	OYE-2-000542
Container Corp. of America	OYD-2-000440
Crown Zellerbach	OYD-2-000323
Dayton Power & Light	
Hutching Station	OYE-2-000047
Stewart Station	OYE-2-000131
Tait Station	OYE-2-000115
E.I. du Pont	OX2-2-000344
E.I. du Pont	OYD-2-000567
Firestone	OYD-2-000940
General Electric	OYE-2-000705 20
Goodyear	OX2-2-000113
Gulf Oil Co.	OX5-2-710243
Harshaw Chemical	OX2-2-000256
Hayes Albion Corp.	OX5-2-710469
Interlake Steel	OX5-2-710274
Johns-Manville	OX5-2-710110
Jones-Laughlin Steel	OX2-2-000303
Libby-McNeil-Libby	OX5-2-735001
Libby-Owens Ford	OX5-2-710039
Mead Corp.	OYD-2-000200 30
Mobil Oil Corp., Ind. Chem. Div.	OYE-2-000108
Oxford Paper	OYE-2-000521
PPG Industries, Inc.	OYD-2-000116
Republic Steel	OX2-2-000328
River Smelting & Refining	OX2-2-000037
Sorg Paper	OYE-2-000443
Standard Oil Co.	OX5-2-710274
Sun Oil Co.	OX5-2-710234
U.S. Plywood-Champion Paper Co.	OYE-2-000601
U.S. Steel Corp.-Central Furnace	OX2-2-000607 40
U.S. Steel Corp.-Cuyahoga Works	OX2-2-000609
Vistron	OX5-2-710067

II. Major dischargers to effluent limited segments in priority river basins.

GMC Foundry OX5-2-710119

III. Major dischargers to water quality segments in non-priority basins.

Brush Beryllium	OX5-2-710051
Central Soya	OX2-2-000392
Chase Bag	OX2-2-000143
Cleveland Electric Illum. Co.	
Ashtabula	OX2-2-000355
Avon Lake	OX2-2-000354
Cleveland	OX2-2-000357
Willoughby	OX2-2-000356
Columbus-Southern Elec. Co.	
Conesville Station	OYD-2-000383
Copperweld Steel	OYJ-2-000303
Detrex Chemical, Inc.	OX2-2-000287
Diamond Shamrock	OX2-2-000240
Dover Chemical	OYD-2-000747
Ford Motor Co.	OX2-2-000370
General Electric Co.	
Mahoning Glass Co.	OYJ-2-000307
Niles Glass Co.	OYJ-2-000308
General Tire & Rubber Co.	OX2-3-000109
Glycon Chemical	OX2-2-000104
GMC, H.B. Division	OX2-2-000092
Harshaw Chemical	OX2-2-000232
IRC Fiber Corp.	OX2-2-000349
New Jersey Zinc	OX2-2-000172
Norfolk & Western R.R.	OX2-2-000442
North American Rockwell	OYJ-2-000309
Ohio Edison Co.	
Niles Plant	OYJ-2-000410
Olin Corp.	OX2-2-000401
Reactive Metals, Inc.	
Metal Reduction Plant	OX2-2-000156
Sodium & Chlorine Plant	OX2-2-000157
Republic Steel	
Niles Plant	OYJ-2-000315
Warren Plant	OYJ-2-000316
Youngstown Plant	OYJ-2-000317
Republic Steel	OYD-2-000692
Sherwin Williams	OX2-2-000205
Stone Container	OYD-2-000431
Toledo Edison	
Bayshore Station	OX5-2-710265
Union Camp Corp.	OYD-2-000737
U.S. Steel Corp.	OYJ-2-000622
Vulcan Materials	OX2-3-000391
Wheeling-Pittsburgh Steel	OYJ-2-000327

Youngstown Sheet & Tube Co.  
Brier Hill Plant  
Campbell-Struthers Works

OYJ-2-000320

OYJ-2-000321 40

IV. Major dischargers to effluent limited non-priority basins.

Allied Chemical

Agricultural Div.

OYD-2-000863

Semet Solvay Div., Coke Plant

OYD-2-000819

Tar Plant

OYD-2-000816

ARMCO Steel

OYD-2-000686

Bechtel-McLaughlin

OX2-2-000267

Dayton Malleable Iron Co.

OYD-2-000502

Empire Detroit Steel

OYD-2-000510

Gould Inc. Clevite Bearing Div.

OYD-2-000582

Federal Paperboard Co.

OYD-2-000349

National Steel Corp.

Weirton Steel Div.

OYJ-2-000001 10

Ohio Edison Power

Burger General Station

OYD-2-000428

Stratton

OYJ-2-000409

Toronto

OYJ-2-000349

Ohio Ferro Alloys

OYD-2-000471

Ohio Power

Cardinal

OYD-2-001089

Muskingum

OYD-2-000545

Philo

OYD-2-000516

Tidd

OYD-2-001094

Ohio Valley Electric Co.

Kyger Creek Station

OYD-2-000371

Penn Central

OYJ-2-001264 20

Shell Chemical

OYD-2-000716

Titanium Metals Corp.

OYJ-2-000090

Toronto Paperboard Co.

OYJ-2-000587

Union Carbide

Chem/Plastics

OYD-2-000022

Ferro Alloy Div.

OYD-2-000041

Wheeling Pittsburgh Steel

OYD-2-000222

Wheeling Pittsburgh Steel

OYD-2-000323

Wheeling Pittsburgh Steel

OYD-2-000324

Wheeling Pittsburgh Steel

OYD-2-000328 21

List of Categories and Sizes (numbers) of Point Sources  
Which Ohio Proposes to Issue Permits Under the NPDES Program

<u>Priority Groups and Discharger Categories</u>	<u>Estimated Number of Point Sources Required to File for NPDES Permit</u>
I. Major dischargers	
industrial	108
municipal	127
II. Dischargers to water quality segments in priority basins	
industrial	287
municipal	168
semi-publics	122
III. Dischargers to effluent standard class segment in priority basins	
industrial	115
municipal	28
semi-publics	46
IV. Dischargers to water quality class segments outside priority basins	
industrial	296
municipal	212
semi-publics	117
V. Dischargers to effluent standard class segments outside priority basins	
industrial	502
municipal	78
semi-publics	48
TOTALS	<u>2254</u>
Special Classes of dischargers	
water treatment (est)	300
strip mines (est)	<u>200</u>
	2754

### 2.3.3 Categories of Point Sources Not Required to Have NPDES Discharge Permits

Certain point source dischargers will not be required to apply for an NPDES discharge permit. The excluded categories of dischargers are defined in 40 CFR 124.11.



#### 2.3.4 Public Notices and Participation Procedures

##### Policy

It is the policy of this agency to provide interested and potentially interested parties with information regarding proposed actions of the Director and to encourage public participation in determination process of issuing or denying an NPDES Permit. In the application of this policy, requirements and procedures as set forth in Section 125.32 et. seq. of the Federal Water Pollution Control Act and in Ohio Environmental Protection Agency Regulation EP-40 will be followed. In addition to these legal requirements, the Public Interest Center of this Agency will endeavor to place news items regarding the matters being advertised in the local papers in the area concerned. These news items will be in addition to the Legal Notices and will be scheduled to be published a few days prior to the event being advertised. In this manner, even though an item was advertised in the Legal Notices 30 days prior to the event, the public will again have an opportunity to be advised of the event.

##### Procedure

In implementing the above policy, Section 3745.07, Ohio Revised Code; Ohio Environmental Protection Agency Regulation EP-40, "Rules of Procedure"; and the requirements of the Federal Water Pollution Control Act will be followed.

Both Section 3745.07 and EP-40-07 require that receipt of an application be advertised in two manners. One is by advertising in a newspaper of general circulation in the county in which the source is located within ten days after receipt of the application. The second is by mailing within seven days of the receipt of the application notice by first class mail to those persons who subscribe on an annual basis for such notice. Applications are normally received in the District Offices. There they are logged in and the information necessary for advertising is sent by Teletype to the Data and Systems Division in Columbus. The Data and Systems Division, by use of a computer, generates the public notices for each county receiving any applications. A summation of the individual county listings constitutes the list sent to those persons who subscribe for it. Each Monday, Data and Systems delivers to the Hearing Clerk copies necessary for mailing to the advertising newspapers and to the subscribers. The actual mailing is done by the Hearing Clerk's Section.

As the application is processed in the District Office and a permit is drafted, a fact sheet and/or a public notice are generated. Because of the required content of a fact sheet, the District personnel can do this most easily. These documents become part of the permit package as it develops and progresses from the District to Columbus and through the various steps to arrive, ultimately, at the NPDES Permit Records Section.

The Permit Records Section will check to see that the public notice and fact sheet are present, complete and in compliance with regulations. If no objection has been received as a result of the initial advertisement of receipt of the application, a date for the public notice will be established. In order to provide for time to mail the public notice to a newspaper and have it published, this will normally be a date five days after the mailing of the notice to the paper. Legal holidays or requirement to publish in a weekly newspaper could cause a day or two increase in the five day figure but that will be an exception rather than a normal condition. On the same day the notice is mailed to the newspaper for publication, copies of the public notice, fact sheet and proposed permit will be mailed, as appropriate, to all interested Federal, State and local governmental agencies, the applicant, and all other parties who have been determined to be interested parties.

One of these addresses is the Agency's Public Interest Center (PIC). In this manner, the PIC is promptly made aware of the proposed action and can schedule releases to the news media at appropriate times.

When the 30-day period for public notice has expired, determination of whether or not significant public interest has been shown to warrant a public meeting will be determined by the Technical Regulatory Advisory Group. If no public meeting is to be held and no adjudication hearing has been requested, the permit could be issued.

The simplest, cleanest path has been described above. If an objection had been received as a result of the advertising upon initial receipt of the application, the objector would have received copies of the public notice and fact sheet. The applicant would have been notified of the objection raised. The need for an adjudication hearing is established by receipt of the objection (Section 3745.07). The actual date of hearing would be determined after consultation with the Chief Hearing Examiner.

### 2.3.5 Monitoring, Reporting and Recording Procedures

#### Effluent Monitoring

The monitoring, recording and reporting requirements for NPDES permittees in Ohio are under the jurisdiction of the Division of Surveillance, Source Performance Section. These monitoring programs meet the requirements of the U.S. EPA as stated in 40 CFR 124.61 to 124.64.

The general requirements of the monitoring program will be listed as general conditions of the permit and will include the requirement:

- (1) to install, use and maintain monitoring equipment when ordered;
- (2) to measure the effluent flow and sample and analyze the constituents;
- (3) to record the details of the sampling and analyses and to retain these records for a minimum of three years; and
- (4) to report monthly the effluent flows and constituent analyses indicated in the permit.

The system within Ohio EPA for the review of the monthly reports is based on the use of electronic data processing for the storage and initial screening. The monthly reports will be received in the district office, logged in, and checked for completeness. The two part copy will then be separated with the original being filed as a legal document. The copy will be given a quick screening by the technical staff and then sent to the Division of Data and Systems in Columbus for encoding. The encoded data will be thoroughly checked for errors and then screened against the effluent limits and sampling frequency established in the permit. Monitoring reports that show out-of-limits data or improper sampling frequency will be listed and sent to the district office for verification and follow-up.

The results of the screening program will be used to select those permittees who persist in non-compliance for field surveillance and possible enforcement action.

The data in the monthly report data bank will be used to calculate the effluent loadings for entry into the U.S. EPA General Point Source File (GPSF). These data will be supplied to U.S. EPA on tape in a format capable of direct entry into GPSF. When the details of the system are set and approved, permit holders can be notified that the single report to Ohio EPA will satisfy the self-monitoring requirements of the U.S. EPA.

The data in the monthly report data bank will also be used for statistical analysis to determine means, standard deviations, correlations between parameters, seasonal variations and time trends. The data can be sorted by many characteristics, e.g., industries by type, public facilities by discharge volume and type of treatment, and entities by river basin in order along a river. The latter makes the data readily available for basin studies under Section 303(e).

Compliance Monitoring

When a permittee's present discharge does not meet the legal requirements of state law, he will be required to construct facilities to bring him into compliance. As required in an NPDES permit, the permittee will be required to submit a number of reports indicating progress towards meeting the permit requirements. These reports will be received by the district office representative of the NPDES Permit Records Section. One copy of the report will be forwarded to the Division of Data and Systems for placing in the Water Permits Information System; the other copy will be forwarded to the Division of Waste Management and Engineering for review and determination of adequacy. If the report is inadequate or the Water Permits Information System printouts indicate reports have not been filed, district office personnel will be responsible for investigating the problem. If non-compliance persists, the case will be referred to the Litigation and NPDES Permit Records Division for possible legal action.

#### 2.3.6 Outstanding State Permits

The Ohio EPA replaced the Ohio Water Pollution Control Board (WPCB) in October 1972. Ohio EPA has not issued any proposed permits since its creation except for the six NPDES permits issued jointly by Ohio EPA and Region V. All permits issued by the WPCB will have expired not later than November 15, 1973, unless an adjudication hearing was requested. For those entities which requested an adjudication hearing and received modified findings and orders as a result, all but 31 of the permits issued will expire in October 1973. Of the 31 remaining, 12 will expire by January 1974 and the other 19 by the end of December 1974. The Ohio EPA recognizes that these existing orders will not be sufficient for the purposes of the NPDES program. All dischargers into the waters of the State of Ohio which are currently under order of the Water Pollution Control Board will be required to file an application for an NPDES permit pursuant to state law and applicable federal laws. The Ohio EPA will be issuing permits with appropriate restrictions by December 1974 for all dischargers currently under order of the Water Pollution Control Board.

2.4 Manpower and Funding Support

The Ohio EPA has determined that 65.7 man years are sufficient to provide adequate support to the NPDES program. To supply this effort will involve 153 present staff and filling three vacancies in the Division of Data and Systems. Financial support for this program is derived from a total Agency budget of \$12,347,946. State revenues account for \$10,314,962 and federal program grants amount to \$2,032,984.

Summary of Ohio EPA Staff, Time, Salaries, and Support Costs to  
Administer the NPDES Program

Staff Time and Salaries:

<u>Division</u>	<u>Man-Years</u>	<u>Cost</u>
Waste Management & Engineering	29.05	\$ 363,811
Surveillance	17.75	180,778
Litigation/NPDES Permit Records	9.50	98,339
Planning	2.70	26,885
Data & Systems	4.90	47,907
Intergovernmental Administration	.30	3,282
Office for Environmental Programs	1.50	10,471
Sub-Total	65.70	\$ 731,473
Fringe Benefits - 15%		\$ 109,720
TOTAL		\$ 841,193

Administrative Support:

	<u>Cost</u>
Travel	\$ 57,000
Motor Vehicle Expense	23,000
Supplies	8,000
Duplicating	8,000
Data Processing	21,000
Printing	3,000
Rent	85,000
Postage	8,000
Communications	25,000
Laboratory	240,000
Hearings and Advertising	74,000
Equipment	25,000
Other Administrative Support	29,000
Total	\$ 606,000
<u>Grand Total</u>	<u>\$1,447,194</u>

Crucial to an effective program are trained personnel to carry out the various activities. In the following section, the personnel working with the permit program are divided by Civil Service classification. The qualifications necessary for a person to hold the various positions are detailed in Appendix 3.5.



Classification of Personnel Involved in NPDES

<u>Position Title</u>	<u>No. of Staff</u>	<u>Annual Salary</u>	<u>% Man Years in Permit Program</u>
<u>Waste Management and Engineering - Central Office</u>			
P.H. Engr. 7	1	\$ 23,733	.05
P.H. Engr. 6	3	19,698	.50
P.H. Engr. 5	2	17,306	.60
P.H. Engr. 4	1	15,142	.40
P.H. Engr. 2	5	12,938	2.80
Eng. Tech. 7	2	12,376	.80
Eng. Tech. 4	1	9,006	.40
Eng. Tech. 2	1	7,821	.40
Eng. Tech. 1	2	7,322	.80
Chemist 2	1	9,797	.40
Clerk-Typist 3	<u>3</u>	6,406	<u>1.20</u>
	21		8.35
<u>District Offices</u>			
P.H. Engr. 7	4	23,733	.40
P.H. Engr. 5	5	17,306	1.60
P.H. Engr. 4	3	16,578	1.00
P.H. Engr. 3	1	14,414	.40
P.H. Engr. 2	32	12,938	12.50
P.H. Engr. 1	1	11,939	.40
Eng. Tech. 7	1	12,376	.40
Eng. Tech. 6	1	11,939	.40
Eng. Tech. 5	1	10,650	.40
Eng. Tech. 4	1	9,006	.40
Eng. Tech. 3	5	8,382	1.60
Clerk 4	1	7,966	.40
Clerk-Typist 3	2	6,406	.40
Clerk-Steno 3	<u>1</u>	6,614	<u>.40</u>
	59		20.70
Totals	<u>80</u>		<u>29.05</u>
Total Cost			\$ 363,811

Surveillance - Central Office

P.H. Engr. 6	1	19,698	.40
P.H. Engr. 5	1	17,306	.20
P.H. Engr. 2	1	12,938	1.00
Eng. Tech. 7	2	12,376	2.00
Clerk-Typist 3	<u>2</u>	6,406	<u>1.00</u>
	7		4.60

District Office

P.H. Engr. 3	2	14,414	1.00
P.H. Engr. 2	6	12,938	3.95
Eng. Tech. 7	1	12,376	1.00
Eng. Tech. 6	1	11,939	.70
Eng. Tech. 4	2	9,006	1.10
Eng. Tech. 3	2	8,382	1.20
Eng. Tech. 2	2	7,821	.70
Eng. Aide 3	1	7,322	.70
Chemist 2	1	9,797	.40
Clerk-Typist 2	1	5,824	.70
Clerk-Typist 1	2	5,325	1.70
	<u>21</u>		<u>13.15</u>

Totals	<u>28</u>		<u>17.75</u>
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Total Cost			\$ 180,778
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Data and Systems

Admin. Spec. 4	2	12,376	2.00
Admin. Spec. 3	1	10,650	1.00
EDP Data Clerk 2	<u>4</u>	5,990	1.90
	<u>7*</u>		<u>4.90</u>

\* Three positions are presently vacant

Totals	<u>7</u>		<u>4.90</u>
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Total Cost			\$ 47,907
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Intergovernmental Administration

Admin. Spec. 4	1	12,376	.20
Admin. Spec. 1	<u>1</u>	8,070	.10
	<u>2</u>		<u>.30</u>

Totals	<u>2</u>		<u>.30</u>
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Total Cost			\$ 3,282
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Office for Environmental Programs

P.H. Engr. 6	1	19,698	.75
Clerk-Typist 3	<u>1</u>	6,406	.75

Totals	<u>2</u>		<u>1.50</u>
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Total Cost			\$ 10,471
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Litigation and NPDES Permit Records

Executive 6	2	16,578	.95
Atty. Exam. 5	2	15,850	.50
Atty. Exam. 4	1	13,915	.20
Atty. Exam. 2	2	11,066	.20
P.H. Engr. 6	1	19,698	.30
Admin. Spec. 4	2	12,376	.90
Admin. Spec. 2	4	9,006	1.05
Admin. Spec. 1	3	8,070	.60
Clerk 5	1	7,821	.75
Clerk 4	1	7,966	.30
Clerk-Typist 3	6	6,406	2.90
Clerk-Typist 2	1	5,824	.75
Secretary 1	<u>1</u>	6,822	<u>.10</u>
	27		9.50
Totals	<u>27</u>		<u>9.50</u>

Total Cost

\$ 98,339

Planning

Admin. Spec. 3	2	10,650	.80
Admin. Spec. 2	1	9,006	.40
Admin. Spec. 1	1	8,070	.40
P.H. Engr. 2	1	12,938	.30
Eng. Tech. 2	1	7,821	.40
Engr. in training	<u>1</u>	10,650	<u>.40</u>
	7		2.70
Totals	<u>7</u>		<u>2.70</u>

Total Cost

\$ 26,885

2.5 Forms Other Than Uniform National Forms for Use in NPDES to Be Used by Ohio EPA

The Ohio EPA does not intend to use any other form than those uniform national forms which are established by the Administrator of U.S. EPA for use in the NPDES program except a separate form for reporting monitoring information. These reports received from the dischargers pursuant to monitoring requirements will be interfaced with the General Point Source File (GPSF) and will be available to U.S. EPA.

The following page, 34a, is the Ohio EPA Monthly Report Form.

2.6 Environmental Board of Review Membership

The Environmental Board of Review (EBR) is a full-time administrative appeals board with power to vacate, modify, or approve actions of the Ohio Environmental Protection Agency. It has exclusive appellate jurisdiction over NPDES permits issued by the Ohio EPA. After action by the EBR, the Director of the Ohio EPA re-issues the NPDES permit to reflect the EBR decision.

By law each member of the EBR must have extensive experience in pollution control and abatement technology, ecology, public health, environmental law, economics of natural resource development, or related fields. At least one member must be an attorney. The Board members are:

<u>Member</u>	<u>Term</u>
Stanley Weissman	10/23/72 - 10/22/78
Richard McCutchen	10/23/72 - 10/22/76
Earl F. Murphy	10/23/72 - 10/22/74

## 2.7 Disposal of Pollutants by Subsurface Injection into Deep Disposal Wells

Disposal of pollutants by this method requires a permit from the Chief of the Division of Oil and Gas, with concurrence of the Director of the Ohio EPA, under the authority of Ohio Revised Code 1509.081, as well as an NPDES discharge permit from the Ohio EPA under the authority of Ohio Revised Code 6111.03 (J) and 6111.04. New and existing operations injecting pollutants into deep wells will be required to file for and operate under an NPDES discharge permit.

The Ohio EPA has established a policy regarding disposal of wastes by subsurface injection. A statement of this policy follows:

### Policy Statement on Disposal of Wastes by Subsurface Injection

#### Background

The disposal and storage of liquid wastes by subsurface injection are continuously being considered, especially by industries with wastes that are not conducive to conventional treatment. The effects of underground injection and the fate of injected materials are uncertain without extensive evaluation of many aspects of such systems. Improper injection of municipal or industrial wastes into certain earth strata could directly and indirectly result in serious pollution of water supplies or other public health and environmental hazards.

#### Policy

The Ohio Environmental Protection Agency is opposed to the disposal or storage of wastes by subsurface injection without strict controls and a clear demonstration that such wastes will not interfere with present or potential use of subsurface water supplies, contaminate interconnected surface waters, or otherwise damage the environment.

All proposals for subsurface injection of wastes shall be critically evaluated to determine that:

- (1) Alternative measures have been explored and found less satisfactory in terms of environmental protection.
- (2) Appropriate evaluations and pre-injection tests have been made to allow prediction of the fate of wastes to be injected as well as the effect of such operations upon the natural conditions in the subsurface.
- (3) Such injection will not interfere with present or potential use of water resources nor result in other environmental hazards.
- (4) All needed measures for pretreatment of wastes have been applied.
- (5) The subsurface injection system has been designed and constructed using approved techniques, equipment, and design criteria.
- (6) Provisions have been made for adequate and continuing monitoring of the injection operation and periodic reservoir

analysis with respect to effects of the injection on health and resource values.

- (7) Appropriate provision will be made for plugging such wells at horizons below present or potential sources of water supply when their use for disposal is discontinued.

Where subsurface injection of wastes is permitted, it should be recognized that it will be continuously evaluated in the light of changing technology and be discontinued when alternatives enabling greater environmental protection become available.

## APPENDIX

### 3.0 Appendix

3.1 Am. Sub. S.B. No. 397

3.2 Am. Sub. S.B. No. 80

3.3 Ohio Environmental Protection Agency -- United States Environmental Protection Agency (Region V) NPDES Agreement

3.4 Ohio Environmental Protection Agency Regulations

EP-1-01 through 07	Water Quality Standards
EP-31-01 through 10	Ohio NPDES Permit
EP-40-01 through 30	Rules of Procedure

3.5 Civil Service Requirements for Staff Members Designated to Administer the NPDES Permit

3.6 Other Applicable State Statutes and Administrative Rules Relating to Functions of the Ohio EPA





## AN ACT

To amend sections 6111.01, 6111.03, 6111.04, 6111.041, 6111.05, 6111.07, and 6111.99 and to enact sections 6111.031, 6111.042, and 6111.09 of the Revised Code to comply with the Federal Water Pollution Control Act Amendments of 1972, and to declare an emergency.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That sections 6111.01, 6111.03, 6111.04, 6111.041, 6111.05, 6111.07, and 6111.99 be amended, and sections 6111.031, 6111.042, and 6111.09 of the Revised Code be enacted to read as follows:

Sec. 6111.01. As used in sections 6111.01 to 6111.08 [~~inclusive~~], and sections 6111.31 to 6111.38 [~~inclusive~~], of the Revised Code:

(A) "Pollution" means the placing of [~~any noxious or deleterious substances~~] ANY SEWAGE, INDUSTRIAL WASTE, OR OTHER WASTES in any waters of the state [~~or affecting the properties of any waters of the state in a manner which renders such waters harmful or inimical to the public health, or to animal or aquatic life, or to the use of such waters for domestic water supply, or industrial or agricultural purposes, or for recreation~~].

(B) "Sewage" means any substance that contains any of the waste products or excrementitious or other discharge from the bodies of human beings or animals [~~which pollutes the waters of the state~~].

(C) "Industrial waste" means any liquid, gaseous, or solid waste substance resulting from any process of industry, manufacture, trade, or business, or from the development, processing, or recovery of any natural resource, together with such sewage as is present [~~which pollutes the waters of the state~~].

(D) "Other wastes" means garbage, refuse, decayed wood, sawdust, shavings, bark, and other wood debris, lime [~~except~~

hydrated or dehydrated lime)], sand, ashes, offal, night soil, oil, tar, coal dust, or silt, [and] other substances [which] THAT are not [included within the definitions of] sewage [and] OR industrial waste [set forth in this section, which pollute the waters of the state], AND ANY OTHER "POLLUTANTS" OR "TOXIC POLLUTANTS" AS DEFINED IN THE "FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972," 86 STAT. 886, 33 U.S.C.A. 1362, THAT ARE NOT SEWAGE OR INDUSTRIAL WASTE.

(E) "Sewerage system" means pipe lines or conduits, pumping stations, and force mains, and all other constructions, devices, appurtenances, and facilities used for collecting or conducting water-borne sewage, industrial waste, or other wastes to a point of disposal or treatment.

(F) "Treatment works" means any plant, disposal field, lagoon, dam, pumping station, incinerator, or other works used for the purpose of treating, stabilizing, or holding sewage, industrial waste, or other wastes, EXCEPT AS OTHERWISE DEFINED.

(G) "Disposal system" means a system for disposing of sewage, industrial waste, or other wastes, and includes sewerage systems and treatment works.

(H) "Waters of the state" means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, which are situated wholly or partly within, or border upon, this state, or are within its jurisdiction, except those private waters which do not combine or effect a junction with natural surface or underground waters.

(I) "Person" means the state, any municipal corporation, [notwithstanding section 6111.11 of the Revised Code,] political subdivision [; public or private corporation, individual, partnership, or other entity] OF THE STATE, PERSON AS DEFINED IN SECTION 1.59 OF THE REVISED CODE, OR INTERSTATE BODY CREATED BY COMPACT.

(J) [On and after November 1, 1967 "industrial"] "INDUSTRIAL water pollution control facility" means any disposal system or any treatment works, pretreatment works, appliance, equipment, machinery, or installation constructed, used, or placed in operation primarily for the purpose of reducing, controlling, or eliminating water pollution caused by industrial waste, or for reducing, controlling, or eliminating the discharge into a disposal system of industrial waste or what would be industrial waste if discharged into the waters of the state.

(K) "SCHEDULE OF COMPLIANCE" MEANS A SCHEDULE OF REMEDIAL MEASURES INCLUDING AN ENFORCEABLE SEQUENCE OF ACTIONS OR OPERATIONS LEADING TO COMPLIANCE WITH STANDARDS AND REGULATIONS ADOPTED UNDER SECTIONS 6111.041 AND 6111.042 OF THE

hereby repealed.

SECTION 3. This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity is the fact that immediate action is necessary to delegate to the Ohio Environmental Protection Agency legal authority to adopt and enforce programs enabling it to comply with the Federal Water Pollution Control Act Amendments of 1972. Therefore this act shall go into immediate effect.

A. G. Lancione

*Speaker* \_\_\_\_\_ *of the House of Representatives.*

John W. Brown

*President* \_\_\_\_\_ *of the Senate.*

Passed August 27, 1973

Approved Sept. 4, 1973

John J. Gilligan

*Governor.*

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

David A. Johnston

*Director Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the 4th day of September, A. D. 1973.

Ted W. Brown

*Secretary of State.*

File No. 172.

Effective Date September 4, 1973.

ISSUED BY the ~~[board promulgated]~~ DIRECTOR pursuant to such sections.

The attorney general, upon WRITTEN request of the director of environmental protection, shall bring an action for an injunction against any person violating or threatening to violate such sections, or violating or threatening to violate any order ~~[of]~~, REGULATION, OR CONDITION OF A PERMIT ISSUED BY the director ~~[promulgated]~~ pursuant to such sections. In an action for injunction to enforce any final order of the director brought pursuant to this section, the finding by the director, after hearing, is prima-facie evidence of the facts found therein.

(C) No person shall knowingly submit false information or records OR FAIL TO SUBMIT INFORMATION OR RECORDS PERTAINING TO DISCHARGES required as a condition of a permit.

Sec. 6111.09. ANY PERSON WHO VIOLATES SECTION 6111.04, 6111.042, 6111.05, OR DIVISION (A) OF SECTION 6111.07 OF THE REVISED CODE SHALL PAY A CIVIL PENALTY OF NOT MORE THAN TEN THOUSAND DOLLARS, TO BE PAID INTO THE STATE TREASURY TO THE CREDIT OF THE GENERAL REVENUE FUND. THE ATTORNEY GENERAL, UPON WRITTEN REQUEST BY THE DIRECTOR OF ENVIRONMENTAL PROTECTION, SHALL COMMENCE AN ACTION UNDER THIS SECTION AGAINST ANY PERSON WHO VIOLATES SECTIONS 6111.04, 6111.042, 6111.05, OR DIVISION (A) OF SECTION 6111.07 OF THE REVISED CODE. ANY ACTION UNDER THIS SECTION IS A CIVIL ACTION, GOVERNED BY THE OHIO RULES OF CIVIL PROCEDURE AND OTHER RULES OF PRACTICE AND PROCEDURE APPLICABLE TO CIVIL ACTIONS.

Sec. 6111.99. (A) Whoever violates SECTION 6111.04, 6111.042, 6111.05, OR division (A) of section 6111.07 of the Revised Code shall be fined not more than ~~[ten]~~ TWENTY-FIVE thousand dollars or imprisoned not more than one year, or both.

(B) Whoever violates sections 6111.13 to 6111.15, 6111.45, or 6111.46 of the Revised Code, shall be fined not more than five hundred dollars.

(C) Whoever violates division (C) of section 6111.07 of the Revised Code shall be fined not more than twenty-five thousand dollars.

(D) Whoever violates section 6111.42 of the Revised Code shall be fined not more than one hundred dollars for a first offense; for each subsequent offense such person shall be fined not more than one hundred fifty dollars.

(E) Whoever violates section 6111.44 of the Revised Code shall be fined not more than one hundred dollars.

SECTION 2. That existing sections 6111.01, 6111.03, 6111.04, 6111.041, 6111.05, 6111.07, and 6111.99 of the Revised Code are

REVISED CODE OR COMPLIANCE WITH TERMS AND CONDITIONS OF PERMITS SET UNDER DIVISION (J) OF SECTION 6111.03 OF THE REVISED CODE.

Sec. 6111.03. The director of environmental protection ~~[shall have power]~~ MAY:

(A) ~~[To develop]~~ DEVELOP plans and programs for the prevention, control, and abatement of new or existing pollution of the waters of the state ~~[; including, but not limited to, adopting, amending, and repealing standards of quality for the waters of the state];~~

(B) ~~[To advise]~~ ADVISE, consult, and co-operate with other agencies of the state, the federal government, other states, and interstate agencies, and with affected groups, political subdivisions, and industries in furtherance of the purposes of sections 6111.01 to 6111.08 and sections 6111.31 to 6111.38 of the Revised Code. BEFORE ADOPTING, MODIFYING, OR REPEALING A STANDARD OR REGULATION PURSUANT TO DIVISION (G) OF SECTION 6111.03 OR SECTION 6111.041 OR 6111.042 OF THE REVISED CODE, THE DIRECTOR SHALL (1) MAIL NOTICE TO EACH STATE-WIDE ORGANIZATION THAT HE DETERMINES REPRESENTS PERSONS WHO WOULD BE AFFECTED BY THE PROPOSED STANDARD OR REGULATION, AMENDMENT THERETO, OR REPEAL THEREOF AT LEAST THIRTY-FIVE DAYS BEFORE ANY PUBLIC HEARING THEREON, (2) MAIL A COPY OF EACH PROPOSED STANDARD OR REGULATION, AMENDMENT THERETO, OR REPEAL THEREOF TO ANY PERSON WHO REQUESTS A COPY, WITHIN FIVE DAYS AFTER RECEIPT OF THE REQUEST THEREFOR, AND (3) CONSULT WITH APPROPRIATE STATE AND LOCAL GOVERNMENT AGENCIES OR THEIR REPRESENTATIVES, INCLUDING STATE-WIDE ORGANIZATIONS OF LOCAL GOVERNMENT OFFICIALS, INDUSTRIAL REPRESENTATIVES, AND OTHER INTERESTED PERSONS. ALTHOUGH THE DIRECTOR IS EXPECTED TO DILIGENTLY DISCHARGE THESE DUTIES, FAILURE TO MAIL ANY SUCH NOTICE OR COPY, OR TO SO CONSULT WITH ANY PERSON SHALL NOT INVALIDATE ANY PROCEEDING OR ACTION OF THE DIRECTOR;

(C) ~~[To administer]~~ ADMINISTER grants from the federal government and from other sources, public or private, for carrying out any of its functions, all such moneys to be deposited in the state treasury, and kept by the treasurer of state in a separate fund subject to the lawful orders of the director;

(D) ~~[To administer]~~ ADMINISTER state grants for the construction of sewage and waste collection and treatment works;

(E) ~~[To encourage]~~ ENCOURAGE, participate in, or conduct studies, investigations, research, and demonstrations relating to water pollution, and the causes, prevention, control, and abatement

thereof, as is advisable and necessary for the discharge of its duties under sections 6111.01 to 6111.08 of the Revised Code;

(F) ~~[To collect]~~ COLLECT and disseminate information relating to water pollution and prevention, control, and abatement thereof;

(G) ~~[To adopt]~~ ADOPT, modify, and repeal regulations IN ACCORDANCE WITH CHAPTER 119, OF THE REVISED CODE governing the procedure for hearings, filing of reports, the issuance of permits, the issuance of industrial water pollution control certificates, and all other matters relating to procedure;

(H) ~~[To issue]~~ ISSUE, modify, or revoke orders to prevent, control, or abate water pollution ~~[; subject to section 6111.04 of the Revised Code,]~~ (1) prohibiting or abating discharges of sewage, industrial waste, or other wastes into the waters of the state; (2) requiring the construction of new disposal systems or any parts thereof, or the modification, extension, or alteration of existing disposal systems or any parts thereof; (3) prohibiting additional connections to or extensions of a sewerage system when such connections or extensions would result in an increase in the polluting properties of the effluent from such system when discharged into any waters of the state; (4) REQUIRING COMPLIANCE WITH ANY STANDARD OR REGULATION ADOPTED UNDER SECTION 6111.041 OR 6111.042 OF THE REVISED CODE, OR TERM OR CONDITION OF A PERMIT. In the making of such orders, WHEREVER COMPLIANCE WITH A REGULATION ADOPTED UNDER SECTION 6111.042 OF THE REVISED CODE IS NOT INVOLVED, CONSISTENT WITH THE "FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972," 86 STAT. 816, 33 U.S.C.A. 1251, the director shall give consideration to, and base his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with such orders and to evidence relating to conditions calculated to result from compliance with such orders, and their relation to benefits to the people of the state to be derived from such compliance in accomplishing the purposes of sections 6111.01 to 6111.08 and sections 6111.31 to 6111.38 of the Revised Code;

(I) ~~[To review]~~ REVIEW plans, specifications, or other data relative to disposal systems or any part thereof in connection with the issuance of orders, permits, and industrial water pollution control certificates under sections 6111.01 to 6111.08 and sections 6111.31 to 6111.38 of the Revised Code;

(J) ~~[To issue]~~ ISSUE, revoke, modify, or deny permits for the discharge of sewage, industrial waste, or other wastes into the waters of the state, and for the installation ~~[; or operation]~~ of disposal systems or any parts thereof IN COMPLIANCE WITH ALL REQUIREMENTS OF THE "FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972," 86 STAT. 816, 33 U.S.C.A. 1251 AND MANDATORY REGULATIONS ADOPTED THEREUNDER, and set terms and conditions

SHALL BE AVAILABLE FOR PUBLIC INSPECTION, EXCEPT THAT:

(A) UPON A SHOWING SATISFACTORY TO THE DIRECTOR OF ENVIRONMENTAL PROTECTION BY ANY PERSON THAT SUCH RECORDS, REPORTS, OR INFORMATION, OR ANY PARTICULAR PART THEREOF, OTHER THAN DATA CONCERNING THE AMOUNTS OR CONTENTS OF DISCHARGES OR THE QUALITY OF THE RECEIVING WATERS, TO WHICH THE DIRECTOR HAS ACCESS UNDER THIS CHAPTER, IF MADE PUBLIC WOULD DIVULGE INFORMATION ENTITLED TO PROTECTION AS TRADE SECRETS OF SUCH PERSON, THE DIRECTOR SHALL CONSIDER SUCH RECORD, REPORT, OR INFORMATION OR PARTICULAR PORTION THEREOF CONFIDENTIAL. PRIOR TO DIVULGING ANY ALLEGED TRADE SECRET INFORMATION PURSUANT TO THIS DIVISION, THE DIRECTOR SHALL GIVE TEN DAYS' WRITTEN NOTICE TO THE PERSON CLAIMING TRADE SECRECY.

(B) SUCH RECORD, REPORT, OR INFORMATION MAY BE DISCLOSED TO OTHER OFFICERS, EMPLOYEES, OR AUTHORIZED REPRESENTATIVES OF THE STATE, ANOTHER STATE, OR OF THE UNITED STATES, WHEN NECESSARY TO SUSTAIN AN ACTION BROUGHT PURSUANT TO CHAPTER 6111. OF THE REVISED CODE OR DURING AN ADJUDICATION HEARING, OR WHEN OTHERWISE NECESSARY TO FULFILL ANY REQUIREMENT OF THE "FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972," 86 STAT. 816, 33 U.S.C.A. 1251.

No person to whom a permit has been issued shall refuse entry to any authorized representative of the director or willfully hinder or thwart such representative in the exercise of any authority granted by this section.

Sec. 6111.07. (A) No person shall violate or fail to perform any duty imposed by sections 6111.01 to 6111.08 of the Revised Code, or violate any order ~~[of]~~, REGULATION, OR TERM OR CONDITION OF A PERMIT ISSUED BY the director of environmental protection ~~[promulgated]~~ pursuant to such sections. Each day ~~[such]~~ OF violation ~~[continues after a conviction for a violation of such sections or order of the director and the final determination thereof]~~ is a separate offense ~~[; provided the court may grant a reasonable period of time for compliance]~~.

Any person convicted of violating such sections may also be enjoined, as provided in division (B) of this section, from continuing such violation.

(B) The attorney general, upon the WRITTEN request of the director of environmental protection, shall prosecute any person who violates, or who fails to perform any duty imposed by, sections 6111.01 to 6111.08 of the Revised Code, or who violates any order ~~[of]~~, REGULATION, OR CONDITION OF A PERMIT

director. The director shall give consideration to any standards so established in the issuance, revocation, modification, or denial of permits.

Sec. 6111.042. IN ACCORDANCE WITH CHAPTER 119. OF THE REVISED CODE, THE DIRECTOR OF ENVIRONMENTAL PROTECTION SHALL ADOPT AND ENFORCE, AND MAY MODIFY AND REPEAL, REGULATIONS SETTING FORTH AND REQUIRING COMPLIANCE WITH NATIONAL EFFLUENT LIMITATIONS, NATIONAL STANDARDS OF PERFORMANCE FOR NEW SOURCES, AND NATIONAL TOXIC AND PRETREATMENT EFFLUENT STANDARDS, AS NECESSARY IN ORDER TO INSURE COMPLIANCE WITH THE "FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972," 86 STAT. 846, 33 U.S.C.A. 1311, 1316, AND 1317. NO PERSON SHALL VIOLATE ANY SUCH REGULATION, EXCEPT IN COMPLIANCE WITH THE TERMS AND CONDITIONS OF A PERMIT ISSUED UNDER SECTION 6111.03 OF THE REVISED CODE.

Sec. 6111.05. The director of environmental protection may on his own initiative investigate or make inquiries ~~[in any manner]~~ into any alleged act of pollution or failure to comply with sections 6111.01 to 6111.08 of the Revised Code, or any order, REGULATION, THE TERMS AND CONDITIONS OF A PERMIT, or other determination pursuant thereto. However, upon written complaint by any person the director shall conduct such investigations and make such inquiries as are required.

The director or his duly authorized representative may enter at reasonable times upon any private or public property to inspect and investigate conditions relating to pollution of any waters of the state, INSPECT ANY MONITORING EQUIPMENT, AND SAMPLE ANY DISCHARGES, and ~~[upon refusal of the person owning or controlling such property to permit such entrance, the director]~~ may apply to the court of common pleas having jurisdiction ~~[of such property]~~ for a warrant permitting such entrance and inspection.

Any authorized representative of the director may AT REASONABLE TIMES examine any records or memorandums pertaining to the operation of disposal systems OR DISCHARGES BY "INDUSTRIAL USERS" INTO "PUBLICLY OWNED TREATMENT WORKS" AS DEFINED IN THE "FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972," 86 STAT. 844, 33 U.S.C.A. 1292 AND 1362. The director may require the maintenance of records relating to the operation of SUCH disposal systems OR DISCHARGES. The director may make copies of such records ~~[; but if such records pertain to a private disposal system, such copies may not be made available to the public without express permission of the owner, except that information on the amounts and contents of discharges shall be matters of public record].~~ ANY RECORDS, REPORTS, OR INFORMATION OBTAINED UNDER CHAPTER 6111. OF THE REVISED CODE

of permits, ~~[in order to prevent, control, or abate water pollution]~~ INCLUDING SCHEDULES OF COMPLIANCE, WHERE NECESSARY. THE TERMS AND CONDITIONS SHALL BE DESIGNED TO ACHIEVE AND MAINTAIN FULL COMPLIANCE WITH THE NATIONAL EFFLUENT LIMITATIONS, NATIONAL STANDARDS OF PERFORMANCE FOR NEW SOURCES, AND NATIONAL TOXIC AND PRETREATMENT EFFLUENT STANDARDS SET UNDER SUCH ACT, AND ANY OTHER MANDATORY REQUIREMENTS OF SUCH ACT THAT ARE IMPOSED BY REGULATION OF THE ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY. AN APPLICATION FOR A PERMIT OR RENEWAL THEREOF SHALL BE DENIED IF:

(1) THE SECRETARY OF THE ARMY DETERMINES IN WRITING THAT ANCHORAGE OR NAVIGATION WOULD BE SUBSTANTIALLY IMPAIRED THEREBY;

(2) THE DIRECTOR DETERMINES THAT THE PROPOSED DISCHARGE OR SOURCE WOULD CONFLICT WITH AN AREA WIDE WASTE TREATMENT MANAGEMENT PLAN ADOPTED IN ACCORDANCE WITH SECTION 208 OF THE "FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972," 86 STAT. 839, 33 U.S.C.A. 1288;

(3) THE ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY OBJECTS IN WRITING TO THE ISSUANCE OR RENEWAL OF THE PERMIT IN ACCORDANCE WITH SECTION 402 (d) OF THE "FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972," 86 STAT. 880, 33 U.S.C.A. 1342 (d); OR

(4) THE APPLICATION IS FOR THE DISCHARGE OF ANY RADIOLOGICAL, CHEMICAL, OR BIOLOGICAL WAREFARE AGENT, OR HIGH-LEVEL RADIOACTIVE WASTE INTO THE WATERS OF THE UNITED STATES.

~~[In issuing, revoking, modifying, or denying permits]~~ TO ACHIEVE AND MAINTAIN APPLICABLE STANDARDS OF QUALITY FOR THE WATERS OF THE STATE ADOPTED PURSUANT TO SECTION 6111.041 OF THE REVISED CODE, the director shall IMPOSE, WHERE NECESSARY AND APPROPRIATE, AS CONDITIONS OF EACH PERMIT, WATER QUALITY RELATED EFFLUENT LIMITATIONS IN ACCORDANCE WITH SECTIONS 301 AND 302 OF THE "FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972," 86 STAT. 844, 33 U.S.C.A. 1311 AND 1312, AND SHALL give consideration to, and base his determination on, evidence relating to the technical feasibility and economic reasonableness of removing the polluting properties from such wastes and to evidence relating to conditions calculated to result from such action, and their relation to benefits to the people of the state and to accomplishment of the purposes of sections 6111.01 to 6111.08 of the Revised Code.

WHERE A DISCHARGE HAVING A THERMAL COMPONENT FROM A SOURCE THAT IS CONSTRUCTED OR MODI-

FIED ON OR AFTER OCTOBER 18, 1972, MEETS NATIONAL OR STATE EFFLUENT LIMITATIONS OR MORE STRINGENT PERMIT CONDITIONS DESIGNED TO ACHIEVE AND MAINTAIN COMPLIANCE WITH APPLICABLE STANDARDS OF QUALITY FOR THE WATERS OF THE STATE, WHICH LIMITATIONS OR CONDITIONS WILL ASSURE PROTECTION AND PROPAGATION OF A BALANCED, INDIGENOUS POPULATION OF SHELLFISH, FISH, AND WILDLIFE IN OR ON THE BODY OF WATER INTO WHICH THE DISCHARGE IS MADE, TAKING INTO ACCOUNT THE INTERACTION OF SUCH THERMAL COMPONENT WITH SEWAGE, INDUSTRIAL WASTE, OR OTHER WASTES, THE DIRECTOR SHALL NOT IMPOSE ANY MORE STRINGENT LIMITATION ON THE THERMAL COMPONENT OF SUCH DISCHARGE, AS A CONDITION OF A PERMIT OR RENEWAL THEREOF FOR SUCH DISCHARGE, DURING A TEN-YEAR PERIOD BEGINNING ON THE DATE OF COMPLETION OF THE CONSTRUCTION OR MODIFICATION OF THE SOURCE, OR DURING THE PERIOD OF DEPRECIATION OR AMORTIZATION OF THE SOURCE FOR THE PURPOSE OF SECTION 167 OR 169 OF THE INTERNAL REVENUE CODE OF 1954, WHICHEVER PERIOD ENDS FIRST.

The director shall specify in permits for the discharge of sewage, industrial waste, and other waste, the NET volume, NET WEIGHT, duration, frequency, and [strength]. WHERE NECESSARY, CONCENTRATION of such sewage, industrial waste, and other wastes which may be discharged INTO THE WATERS OF THE STATE. The director shall specify in such permits that the permit is conditioned upon the right of his authorized representatives to enter upon the premises of the person to whom the permit has been issued for the purpose of determining compliance with sections 6111.01 to 6111.08 of the Revised Code, rules [and regulations] adopted thereunder, or the terms AND CONDITIONS of a permit, order, or other determination. The director shall issue or deny an application for a permit for a new discharge, [or] for the installation or modification of a disposal system, OR FOR RENEWAL OF A PERMIT, within one hundred [twenty] EIGHTY days of the date on which he receives a complete application with all plans, specifications, construction schedules, and other pertinent information required by the director. [Applications for renewals of permits shall be acted upon by the director within sixty days.] The director may condition [such] permits upon the installation of discharge or water quality monitoring equipment or devices and the filing of such periodic reports on the amounts and contents of discharges and the quality of receiving waters as the director prescribes. THE DIRECTOR SHALL CONDITION EACH PERMIT FOR A GOVERNMENT-OWNED DISPOSAL SYSTEM, OR ANY OTHER "PUBLICLY OWNED TREATMENT WORKS" AS DEFINED IN THE "FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972," 86 STAT. 844, 33 U.S.C.A. 1292, UPON THE REPORTING OF NEW INTRODUCTIONS OF INDUSTRIAL WASTE OR OTHER WASTES AND SUBSTANTIAL

other wastes into a sewerage system maintained by the state or a political subdivision [-];

(F) SEPTIC TANKS OR ANY OTHER DISPOSAL SYSTEMS FOR THE DISPOSAL OR TREATMENT OF SEWAGE FROM SINGLE-FAMILY, TWO-FAMILY, OR THREE-FAMILY DWELLINGS IN COMPLIANCE WITH THE SANITARY CODE AND SECTION 1541.21 OR 3707.01 OF THE REVISED CODE. THIS DIVISION DOES NOT AUTHORIZE, WITHOUT A PERMIT, ANY DISCHARGE THAT IS PROHIBITED BY, OR FOR WHICH A PERMIT IS REQUIRED BY, REGULATION OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY.

THE HOLDER OF A PERMIT ISSUED UNDER SECTION 402 (a) OF THE "FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972," 86 STAT. 880, 33 U.S.C.A. 1342, NEED NOT OBTAIN A PERMIT FOR A DISCHARGE AUTHORIZED BY SUCH PERMIT UNTIL ITS EXPIRATION DATE. THE DIRECTOR OF ENVIRONMENTAL PROTECTION SHALL ADMINISTER AND ENFORCE SUCH PERMITS WITHIN THIS STATE, AND MAY MODIFY THE TERMS AND CONDITIONS THEREOF IN ACCORDANCE WITH DIVISION (J) OF SECTION 6111.03 OF THE REVISED CODE.

Sec. 6111.041. In furtherance of sections 6111.01 to 6111.08 of the Revised Code, the director of environmental protection shall adopt standards of water quality to be applicable to the waters of the state [- and may adopt effluent standards for discharges into such waters. The effluent standards shall be designed to achieve and maintain the water quality standards applicable to the waters of the state]. Such standards shall be adopted pursuant to a schedule established, and from time to time amended, by the director, to apply to the various waters of the state [according to criteria for the protection of]. IN ACCORDANCE WITH CHAPTER 119. OF THE REVISED CODE. SUCH STANDARDS SHALL BE ADOPTED IN ACCORDANCE WITH SECTION 303 OF THE "FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972," 86 STAT. 846, 33 U.S.C.A. 1313, AND SHALL BE DESIGNED TO IMPROVE AND MAINTAIN THE QUALITY OF SUCH WATERS FOR THE PURPOSE OF PROTECTING the public health and welfare, AND TO ENABLE the present and planned use of such waters for public water supplies, industrial and agricultural needs, propagation of fish, aquatic life, and wildlife, and recreational purposes. Such standards may be amended from time to time as determined by the director. Prior to establishing, amending, or repealing standards of water quality the director shall, after due notice, conduct public hearings thereon. Notice of hearings shall specify the waters to which the standards relate, and the time, date, and place of hearing.

[The provisions of this section supersede Chapter 119. of the Revised Code.]

Standards of quality for the waters of the state, or any amendment or repeal thereof, become effective upon adoption by the

WHICH APPLICATIONS MAY BE FILED TO OBTAIN PERMITS FOR EXISTING DISCHARGES THAT HAVE NOT BEEN AUTHORIZED BY PERMIT.

The director may require the submission of such plans, specifications, and other information as he deems relevant in connection with the issuance of permits.

This section does not apply to:

(A) Waters used in washing sand, gravel, other aggregates, or mineral products, when such washing and the ultimate disposal of the water used in such washing [is], INCLUDING ANY SEWAGE, INDUSTRIAL WASTE, OR OTHER WASTES CONTAINED IN SUCH WATERS, ARE entirely confined to the land under the control of the person engaged in the recovery and processing of such sand, gravel, other aggregates, or mineral products, AND DO NOT RESULT IN THE POLLUTION OF WATERS OF THE STATE;

(B) [The discharge of hydrated or dehydrated lime into the waters of the state in such quantities as are, in the opinion of the board, beneficial to such waters] WATER, GAS, OR OTHER MATERIAL INJECTED INTO A WELL TO FACILITATE THE PRODUCTION OF OIL OR GAS OR FOR DISPOSAL PURPOSES, OR WATER DERIVED IN ASSOCIATION WITH OIL OR GAS PRODUCTION AND DISPOSED OF IN A WELL, IN COMPLIANCE WITH A PERMIT ISSUED UNDER CHAPTER 1509. OF THE REVISED CODE. THIS DIVISION DOES NOT AUTHORIZE, WITHOUT A PERMIT, ANY DISCHARGE THAT IS PROHIBITED BY, OR FOR WHICH A PERMIT IS REQUIRED BY, REGULATION OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY;

(C) APPLICATION OF ANY MATERIALS TO LAND FOR AGRICULTURAL PURPOSES OR RUNOFF OF SUCH MATERIALS FROM SUCH APPLICATION. THIS DIVISION DOES NOT AUTHORIZE, WITHOUT A PERMIT, ANY DISCHARGE THAT IS PROHIBITED BY, OR FOR WHICH A PERMIT IS REQUIRED BY, REGULATION OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY;

[-(C)-] (D) The [excrementitious discharge] EXCREMENT of domestic and farm animals [; however this] DEFECATED ON LAND OR RUNOFF THEREFROM INTO ANY WATERS OF THE STATE. THIS division does not [permit the disposal into the waters of the state of excrementitious discharge and incident wastes resulting from the operation of facilities used in the mass commercial production of such animals when it results in the pollution of waters of the state] AUTHORIZE, WITHOUT A PERMIT, ANY DISCHARGE THAT IS PROHIBITED BY, OR FOR WHICH A PERMIT IS REQUIRED BY, REGULATION OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY;

[-(D)-] (E) The discharge of sewage, industrial waste, or

CHANGES IN VOLUME OR CHARACTER THEREOF BEING INTRODUCED INTO SUCH SYSTEMS OR WORKS FROM "INDUSTRIAL USERS" AS DEFINED IN SECTION 502 OF SUCH ACT, AS NECESSARY TO COMPLY WITH SECTION 402(b) (8) OF SUCH ACT. In requiring monitoring devices and reports the director shall give consideration to technical feasibility and economic reasonableness, and allow reasonable time for compliance. A permit may be issued for a period not to exceed [three] FIVE years, and may be renewed upon application for renewal, and upon a finding by the director that the permit holder is making satisfactory progress toward the achievement of ALL applicable [discharge and water quality] standards AND HAS COMPLIED WITH THE TERMS AND CONDITIONS OF THE EXISTING PERMIT. A PERMIT MAY BE MODIFIED, SUSPENDED, OR REVOKED FOR CAUSE INCLUDING, BUT NOT LIMITED TO: VIOLATION OF ANY CONDITION OF THE PERMIT; OBTAINING A PERMIT BY MISREPRESENTATION, OR FAILURE TO DISCLOSE FULLY ALL RELEVANT FACTS; OR CHANGES IN ANY CONDITION THAT REQUIRES EITHER A TEMPORARY OR PERMANENT REDUCTION OR ELIMINATION OF THE PERMITTED DISCHARGE. No application shall be denied or permit revoked or modified without a written order stating the findings upon which denial, revocation, or modification is based. A copy of the order shall be sent to the applicant or permit holder by certified mail.

(K) Adopt, modify, and repeal regulations, in accordance with Chapter 119. of the Revised Code, prescribing a schedule of application and renewal fees to be paid by applicants for and holders of permits under division (J) of this section. Such schedule of fees shall be designed solely to defray the costs of processing, issuing, revoking, modifying, and denying permits. NO APPLICATION OR RENEWAL FEE MAY EXCEED TWO HUNDRED FIFTY DOLLARS. NO APPLICATION OR RENEWAL FEE MAY BE CHARGED THE STATE OR ANY POLITICAL SUBDIVISION OF THE STATE.

(L) [To institute] INSTITUTE or cause to be instituted in any court of competent jurisdiction, proceedings to compel compliance with sections 6111.01 to 6111.08 of the Revised Code, [or] with the orders of the director issued under such sections, OR TO INSURE COMPLIANCE WITH SECTIONS 204 (b), 307, AND 308 OF THE "FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972," 86 STAT. 835, 33 U.S.C.A. 1284 (b), 1317, AND 1318;

(M) [To issue] ISSUE, deny, revoke, or modify industrial water pollution control certificates;

(N) [To certify] CERTIFY to the government of the United States or any agency thereof that an industrial water pollution facility is in conformity with the state program or requirements for control of water pollution whenever such certification may be re-



quired for a taxpayer under the Internal Revenue Code of the United States, as amended [-].

(O) ISSUE, MODIFY, AND REVOKE ORDERS REQUIRING ANY "INDUSTRIAL USER" OF ANY "PUBLICLY OWNED TREATMENT WORKS" AS DEFINED IN SECTIONS 212(2) AND 502(18) OF THE "FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972," 86 STAT. 844, 33 U.S.C.A. 1292 AND 1362 TO ESTABLISH AND MAINTAIN RECORDS, MAKE REPORTS, INSTALL, USE, AND MAINTAIN MONITORING EQUIPMENT OR METHODS, INCLUDING, WHERE APPROPRIATE, BIOLOGICAL MONITORING METHODS, SAMPLE DISCHARGES IN ACCORDANCE WITH SUCH METHODS, AT SUCH LOCATIONS, AT SUCH INTERVALS, AND IN SUCH MANNER AS THE DIRECTOR DETERMINES, AND PROVIDE SUCH OTHER INFORMATION AS IS NECESSARY TO ASCERTAIN WHETHER OR NOT THERE IS COMPLIANCE WITH TOXIC AND PRETREATMENT EFFLUENT STANDARDS. IN ISSUING, MODIFYING, AND REVOKING SUCH ORDERS THE DIRECTOR SHALL GIVE CONSIDERATION TO TECHNICAL FEASIBILITY AND ECONOMIC REASONABLENESS, AND ALLOW REASONABLE TIME FOR COMPLIANCE.

[To exercise] (P) EXERCISE all incidental powers necessary to carry out the purposes of sections 6111.01 to 6111.08 and sections 6111.31 to 6111.38 of the Revised Code.

SECTIONS 6111.01 TO 6111.09 AND 6111.99 OF THE REVISED CODE AUTHORIZE THE STATE TO PARTICIPATE IN THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM IN ACCORDANCE WITH THE "FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972," 86 STAT. 816, 33 U.S.C.A. 1251. SUCH SECTIONS SHALL BE ADMINISTERED, CONSISTENT WITH THE LAWS OF THIS STATE AND FEDERAL LAW, IN THE SAME MANNER THAT THE "FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972," 86 STAT. 816, 33 U.S.C.A. 1251, ARE REQUIRED TO BE ADMINISTERED.

Sec. 6111.031. (A) THE DIRECTOR OF ENVIRONMENTAL PROTECTION MAY MODIFY THE TERMS AND CONDITIONS OF A PERMIT OR ISSUE A PERMIT UPON CONDITIONS AT VARIANCE FROM A NATIONAL EFFLUENT LIMITATION SET UNDER SECTION 301 (b) (2) (A) OF THE "FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972," 86 STAT. 845, 33 U.S.C.A. 1311, UPON APPLICATION FILED THEREFOR AFTER JULY 1, 1977, AND A SHOWING SATISFACTORY TO THE DIRECTOR THAT SUCH MODIFIED TERMS AND CONDITIONS (1) WILL REQUIRE THE MAXIMUM USE OF TECHNOLOGY WITHIN THE ECONOMIC CAPABILITY OF THE OWNER OR OPERATOR, AND (2) WILL RESULT IN REASONABLE FURTHER PROGRESS TOWARD THE ELIMINATION OF THE DISCHARGE OF SEWAGE, INDUSTRIAL

WASTE, AND OTHER WASTES INTO THE WATERS OF THE STATE.

(B) THE DIRECTOR MAY, AFTER OPPORTUNITY FOR A PUBLIC HEARING IN ACCORDANCE WITH SECTION 3745.07 OF THE REVISED CODE, ISSUE A PERMIT UPON CONDITIONS AT VARIANCE FROM A NATIONAL OR STATE EFFLUENT LIMITATION FOR THE THERMAL COMPONENT OF A DISCHARGE, UPON A SHOWING SATISFACTORY TO THE DIRECTOR THAT THE NATIONAL OR STATE LIMITATION FOR THE THERMAL COMPONENT IS MORE STRINGENT THAN NECESSARY TO ASSURE THE PROTECTION AND PROPAGATION OF A BALANCED, INDIGENOUS POPULATION OF SHELLFISH, FISH, AND WILDLIFE IN AND ON THE BODY OF WATER INTO WHICH THE DISCHARGE IS MADE OR IS TO BE MADE. IF THE DIRECTOR SO FINDS, HE SHALL IMPOSE A LIMITATION ON THE THERMAL COMPONENT, AS A CONDITION OF THE PERMIT, THAT WILL ASSURE THE PROTECTION AND PROPAGATION OF A BALANCED, INDIGENOUS POPULATION OF SHELLFISH, FISH, AND WILDLIFE IN AND ON THE BODY OF WATER INTO WHICH THE DISCHARGE IS MADE OR IS TO BE MADE, TAKING INTO ACCOUNT THE INTERACTION OF SUCH THERMAL COMPONENT WITH SEWAGE, INDUSTRIAL WASTE, OR OTHER WASTES, AND INCLUDING A MARGIN OF SAFETY THAT TAKES INTO ACCOUNT ANY LACK OF KNOWLEDGE CONCERNING THE DEVELOPMENT OF THERMAL WATER QUALITY CRITERIA FOR SUCH PURPOSES.

Sec. 6111.04. No person shall cause pollution [as defined in division (A) of section 6111.01 of the Revised Code of any waters of the state,] or place or cause to be placed any sewage, industrial waste, or other wastes in a location where they cause pollution of any waters of the state [- Any]. AND ANY such action is hereby declared to be a public nuisance, except in such cases where the director of environmental protection has issued a valid and unexpired permit, or renewal thereof, as provided in sections 6111.01 to 6111.08 of the Revised Code, or an application for renewal is pending.

No person to whom a permit has been issued shall place or discharge, or cause to be placed or discharged, in any waters of the state any sewage, industrial waste, or other wastes in excess of the permissive discharges specified under such existing permit without first receiving a permit from the director to do so.

No person who is discharging or causing the discharge of any sewage, industrial waste, or other wastes into the waters of the state shall continue or cause the continuance of such discharge [after September 27, 1962], without first obtaining a permit therefor issued by the director [pursuant to rules and regulations to be prescribed by him]. THE DIRECTOR SHALL PRESCRIBE BY REGULATION A REASONABLE FILING PERIOD WITHIN



3.3 Ohio Environmental Protection Agency - United States Environmental  
Protection Agency (Region V) NPDES Agreement

MEMORANDUM OF AGREEMENT  
BETWEEN THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY  
AND  
REGION V, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

INTRODUCTION

The Environmental Protection Agency (EPA) Guidelines for State program elements necessary for participation in the National Pollutant Discharge Elimination System (NPDES), 40 CFR 124, prepared pursuant to the authority contained in Section 304(h) (2) of the Federal Water Pollution Control Act Amendments of 1972 (referred herein as the Federal Act) were published in the Federal Register on December 22, 1972. Various sections of the Guidelines permit the Chief Administrative Officer of a State water pollution control agency and the Regional Administrator of EPA to reach agreement on the manner in which the 40 CFR 124 Guidelines are to be implemented.

To satisfy the requirements of the Guidelines, the following procedures are hereby agreed to by the Chief Administrative Officer of the Ohio Environmental Protection Agency, referred to herein as the Director and the Regional Administrator.

The sections and subsections of 40 CFR 124 related to these agreements are: 124.22, 124.23, 124.35(b), 124.35(c), 124.41(c), 124.44(d), 124.46, 124.47, 124.61(b), 124.62(c), 124.71(c), 124.72(b), 124.73(b)(2), and 124.80(d). The terms used in this Memorandum of Agreement have the same meaning as those used and defined in 40 CFR 124.1.

I. SECTION 124.22 RECEIPT AND USE OF FEDERAL DATA

- A. The two purposes of this part of the Agreement are: (1) to provide for the transfer of data bearing on NPDES permit and Refuse Act applications from the U.S. EPA to the Ohio EPA, and (2) to insure that any deficiencies in the transferred NPDES and Refuse Act applications will be corrected prior to the issuance of an NPDES permit.
- B. Commencing immediately, the Regional Administrator will transmit to the Ohio EPA a list of all NPDES permit and Refuse Act applications received by the U.S. EPA. This list will include the name of each discharger, SIC Code, the application number, and will indicate those NPDES and Refuse Act permit applications which U.S. EPA has determined to be administratively complete.
- C. After receipt of the list, the Ohio EPA will identify the priority order to be used by U.S. EPA to transmit application files to the Ohio EPA. The application file will include the NPDES and Refuse Act permit application and any other pertinent data collected by U.S. EPA. The application files will be transmitted to the NPDES Permit Records Section of the Ohio EPA according to the priority order identified, and U.S. EPA will retain one copy of each file transmitted to the Ohio EPA.
- D. When an NPDES or Refuse Act application transmitted to the Ohio EPA has been identified as administratively incomplete, the Ohio EPA will request the necessary information from the applicant and correct the application. The Director, at his discretion, may also obtain additional information for those applications identified by U.S. EPA as administratively complete to update or evaluate and process the application.
- E. The Ohio EPA NPDES Permit Records Section will transmit two (2) copies of completed NPDES applications (other than those determined by U.S. EPA to be complete under paragraph B. above) to the Regional Administrator, Attention: Permit Branch.
- F. If the Regional Administrator determines that an NPDES or Refuse Act application is not complete, he will specifically identify the deficiencies by letter to the NPDES Permit Records Section, Ohio EPA. If no objection is received from the Regional Administrator within 20 days of the date of the postmark of the transmittal, the application shall be deemed to be complete and the Ohio EPA will act upon the permit application without further action by the Regional Administrator. If deficiencies are identified by the Regional Administrator during the time period specified above, no NPDES permit will be issued by the Director until all deficiencies are corrected in a revised NPDES application, the revised application is transmitted to the Regional Administrator, and 15 days from the date of the postmark of the transmittal elapse without objection by him.
- G. The Ohio EPA will transmit weekly to the Regional Administrator, Attention: Permit Branch, a listing of applications sent to U.S. EPA. This listing will include the application number, name of applicant, and period of comment. U.S. EPA will confirm that the listing accurately represents those applications received.

II. SECTION 124.23 TRANSMISSION OF DATA TO REGIONAL ADMINISTRATOR

- A. The procedure specified in this section (Section II) of this Memorandum of Agreement will apply to NPDES applications, forms and reporting forms received by the Director from dischargers after the receipt of permit authorization under Section 402(b) of the Federal Act.
- B. When the Ohio EPA determines that NPDES forms received from the discharger are complete, two (2) copies of the forms with a cover letter indicating that the forms are complete will be transmitted by the Ohio EPA NPDES Permit Records Section to the Regional Administrator, Attention: Permit Branch. If the U.S. EPA concurs with the Director's findings of completeness, one (1) copy will be routed to the Regional Data Management Section, Surveillance and Analysis Division, through the Compliance Section, Enforcement Division for processing into the National Data Bank and the other copy will be placed in the Regional NPDES Permit Branch file. The Ohio EPA may transmit forms directly into the National Data Bank subject to prior approval of procedures by the NPDES Permit Branch and Data Management Section. If the U.S. EPA determines that any NPDES application or reporting form received from the Ohio EPA is not complete, the deficiencies will be identified by letter to the NPDES Permit Records Section, Ohio EPA. The Ohio EPA will request the necessary information from the applicant or reporting entity and correct the application or reporting form. If no objection to an NPDES application is received from the Regional Administrator within 15 days of the date of the postmark of the transmittal of the application or within 40 days of the postmark of the transmittal of the reporting form, the application or reporting form shall be deemed to be complete. If deficiencies are identified in an NPDES application by the Regional Administrator during the time period specified above, no NPDES permit will be issued by the Director until a revised NPDES application is transmitted to the Regional Administrator and 15 days from the date of the postmark of the transmittal elapse without objection by him.
- C. The Regional Administrator may waive his rights to receive copies of NPDES forms with respect to classes, types and sizes within any category of point sources and with respect to minor discharges or discharges to particular navigable waters or parts thereof. Such written waiver must be transmitted by the Regional Administrator to the Ohio EPA before the Director can discontinue sending the EPA copies of NPDES forms. In exercising his discretion in relation to the provisions of this paragraph, the Regional Administrator shall pay heed to Section 101(f) of PL 92-500.
- D. Upon receiving an NPDES form from the Director, if the Regional Administrator identifies any discharge which has a total volume of less than 50,000 gallons on every day of the year as a discharge which is not a minor discharge and notifies the Director, the Director will require the applicant for the discharge to submit additional NPDES application forms or any other information requested by the Regional Administrator.
- E. When requested by the Regional Administrator, the Director will transmit copies of notices received by him from publicly owned treatment works pursuant to 40 CFR 124.45(d) and (e) within 20 days of the postmark of the request.

- F. The Ohio EPA will transmit weekly to the Regional Administrator, Attention: Permit Branch, a listing of applications sent to U.S. EPA. This listing will include the application number, name of the applicant, and period of comment. U.S. EPA will confirm that the listing accurately represents those applications received.

III. 124.35(b) and (c) PUBLIC ACCESS TO INFORMATION

- A. The Ohio EPA will protect any information (other than effluent data) contained in NPDES application forms or other documents as confidential upon a showing by any person that such information if made public would divulge methods or processes entitled to protection as trade secrets of that person. If such information appears in NPDES applications or other documents that must be forwarded to the Regional Administrator under the terms of this Memorandum of Agreement, the information for which confidential treatment has been requested will be specifically identified by the Director when the information is transmitted. If the Regional Administrator finds it necessary to consider releasing such information to the public, he will request advice from the Office of General Counsel, requesting a determination of the validity of the claim of confidentiality. The Regional Administrator will simultaneously provide a copy of the request to the person claiming trade secrecy. The General Counsel will determine whether the information in question would, if revealed, divulge methods or processes entitled to protection as trade secrets. In making such determinations, he will consider any additional information submitted to the Office of General Counsel within 30 days of the date of postmark of the request from the Regional Administrator. If the General Counsel determines that the information being considered does not contain trade secrets, he will so advise the Regional Administrator, the Director, and the person claiming trade secrecy of such determination by certified mail. No sooner than 30 days following the date of the postmark of such notice, the Regional Administrator will communicate to the Director his decision not to concur in the withholding of such information, and the Director and the Regional Administrator will then make available to the public, upon request, that information determined not to constitute trade secrets, unless an appeal is made to EPA by the person claiming trade secrecy. Following an appeal, the determination made by EPA will be conclusive unless reviewed in an appropriate district court of the United States.
- B. Any information accorded confidential status, whether or not contained in an NPDES form, will be disclosed by the Director, upon written request, therefore, to the Regional Administrator, or his authorized representative, who will maintain the disclosed information as confidential.



#### IV. 124.44(d) COMPLIANCE SCHEDULE REPORTS

On the last day of the months of February, May, August, and November, the Director will transmit to the Regional Administrator, Attention: Compliance Section, Enforcement Division, a list of all known instances, as of 30 days prior to the date of such report, of failure or refusal of an NPDES permittee to comply with an initial, interim or final requirement or to notify the Director of compliance or non-compliance with each initial, interim or final requirement (as required pursuant to paragraph, 40 CFR 124.44(b)). The list will be available to the public for inspection and copying and will contain at least the following information with respect to each instance of non-compliance:

- (1) The name and address of each non-complying NPDES permittee;
- (2) A short description of each instance of non-compliance (e.g., failure to submit preliminary plans, two-week delay in commencement of construction of treatment facility, failure to notify the Director of compliance with an interim requirement to complete construction by June 30, etc.);
- (3) A short description of any action or proposed action by the permittee or the Director to comply or enforce compliance with an interim or final requirement; and
- (4) Any details which tend to explain or mitigate an instance of non-compliance with an interim or final requirement (e.g., construction delayed due to materials shortage, plan approval delayed by objections from State Fish and Wildlife Agency).

V. SECTION 124.46 TRANSMISSION TO REGIONAL ADMINISTRATOR  
OF PROPOSED NPDES PERMITS

- A. At the time the public notice required by 40 CFR 124.32 is issued, the Director will transmit one copy of the NPDES public notice, fact sheets, proposed NPDES permit, and a list of all persons receiving the public notice, fact sheets, and proposed NPDES permit, together with a description of any other procedure used to circulate the public notice, to the Regional Administrator, Attention: Permit Branch. The information transmitted with the proposed permit will include any and all terms, conditions, requirements, or documents which are part of the proposed NPDES permit or which affect the authorization by the proposed NPDES permit of the discharge of pollutants.
- B. The Director will provide periods of public notice and, where appropriate, Public Meetings on proposed NPDES permits in accordance with the provisions of the Ohio EPA Rules of Procedure, which satisfy the Public Notice and Public Hearing requirements of the U.S. EPA Guidelines. If the Director has received a specific request that a Public Meeting be held on a proposed NPDES permit, he will notify the Regional Administrator of that fact and his decision whether to hold such a Public Meeting within 45 days of the date of public notice. If the Director decides not to hold such a Public Meeting, he will provide the Regional Administrator and all parties requesting the Public Meeting, within 45 days of the date of public notice, with a written explanation of why the Public Meeting was not held.
- C. If a proposed NPDES permit issued with a public notice is modified as a result of the Public Notice or Public Meeting, a revised copy of the proposed NPDES permit will be transmitted to the Regional Administrator, Attention: Permit Branch, together with a copy of all statements received from the public notice, and where a Public Meeting is held, a summary of all objections. In lieu of a summary, the Director may provide a verbatim transcript of the entire Public Meeting. If no comment is received by the Director within 35 days of the date of the postmark of the transmittal of the revised permit, he will assume U.S. EPA has no objections to NPDES permit issuance.
- D. If a proposed NPDES permit is not revised after a public notice or, if held, a public hearing, the Director will notify the Regional Administrator, Attention: Permit Branch, by letter that the proposed NPDES permit issued with the public notice has not been revised and will include a copy of all written statements received from the public notice. If no comment is received by the Director within 20 days of the date of the postmark of this letter, he will assume U.S. EPA has no objection to NPDES permit issuance. Before any permit is issued by the Director, he shall confirm that a copy of the permit was received by the Regional Administrator.
- E. No NPDES permit will be issued by the Director until he receives a letter from the Regional Administrator or his designee approving the issuance of the NPDES permit under Section 402(b) of the Federal Act, or if no comment is received by the Director from U.S. EPA within the time provided in paragraphs C and D above. Before any permit is issued by the Director, he shall confirm that a copy of the permit was received by the Regional Administrator.
- F. If the Regional Administrator objects to a proposed NPDES permit he will notify the Director in writing within the time period or sooner as identified in paragraphs C or D above and specify the nature of the objection

and the terms and conditions required to eliminate his objection to the proposed permit. The response of the Director to these objections will be communicated in writing by the Director to the Regional Administrator, and no permit will be issued before written approval of a revised NPDES discharge permit is received by the Director from the Regional Administrator.

- G. The Regional Administrator may waive his rights to receive, review, object to, or comment upon proposed NPDES permits for classes, types, or sizes within any category of point sources. Such written waiver must be transmitted by the Regional Administrator to the Ohio EPA before the Director can issue an NPDES permit without U.S. EPA approval.
- H. The Ohio EPA will transmit weekly to the Regional Administrator, Attention: Permits Branch, a list of permits to be issued. Before any permit is issued by the Director, he shall confirm that a copy of the permit has been received by the Regional Administrator.

VI. 124.47 TRANSMISSION TO REGIONAL ADMINISTRATOR  
OF ISSUED NPDES PERMITS

- A. The Director will transmit to the Regional Administrator, Attention: Permit Branch, two (2) copies of every issued NPDES permit, together with any and all terms, conditions, requirements, or documents which are a part of the NPDES permit or which affect the authorization by the NPDES permit of the discharge of pollutants.
- B. The Director will transmit the above information together with a copy of the Director's letter to the applicant forwarding the NPDES permit, at the same time the NPDES permit is issued.

VII. 124.61(b) MONITORING

- A. Permit conditions issued by the Ohio EPA for any discharge authorized by an NPDES permit which (1) is not a minor discharge as defined by 40 CFR 124, (2) the Regional Administrator requests, in writing, be monitored, or (3) contains toxic pollutants for which an effluent standard has been established by the Administrator pursuant to Section 307(a) of the Federal Act, will require monitoring by the permittee for at least the following:
- i. Flow in gallons per day and
  - ii. All of the following pollutants:
    - a. Pollutants (either directly or indirectly through the use of accepted correlation coefficients or equivalent measurements) which are subject to reduction or elimination under the terms and conditions of the permit;
    - b. Pollutants which the Director finds, on the basis of information available to him, could have a significant impact on the quality of navigable waters;
    - c. Pollutants specified by the Administrator, in regulations issued pursuant to the Federal Act, as subject to monitoring; and
    - d. Any pollutants in addition to the above which the Region Administrator requests, in writing, be monitored.
- B. The Regional Administrator may make the request specified in A (2) and A (3) (ii) (d) above at any time before an NPDES permit is issued.
- C. The Director will transmit to the Regional Administrator data submitted by NPDES permittees on self-monitoring reporting forms, either by (1) forwarding copies of the reporting forms to the Regional Administrator, Attention: Compliance Section, Enforcement Division, or (2) by direct entry into the General Point Source File data system.
- D. The Director will transmit on the last day of the months of February, May, August, and November, to the Regional Administrator, Attention: Compliance Section, Enforcement Division, a list of all known instances as of 30 days prior to the date of such report, of all violations of effluent limitations indicated by self-monitoring reports. At the time of transfer of permanent authority, the Director shall formulate and continually update a list of all other permittees for which effluent monitoring data will be forwarded monthly. The list, which may be a computer printout, will be available to the public for inspection and copying and will contain at least the following information with respect to each instance of non-compliance:
- (1) The name and address of each non-complying NPDES permittee;
  - (2) The effluent limitations exceeded;
  - (3) Any action or proposed action by the NPDES permittees or the Director to comply or enforce compliance with the effluent limitations; and
  - (4) Any details which tend to explain or mitigate an instance of non-compliance.

VIII. 124.62(c) MONITORING RESULTS

During the period of a permit, upon request of the Regional Administrator, the Director shall notify and require the permittee to extend the normal three year retention of monitoring records under 40 CFR 124.62(c).

IX. 124.71(c) RECEIPT AND FOLLOW-UP NOTIFICATIONS AND REQUESTS

If the Director determines that a condition of a permit of a publicly owned treatment works relating to a new introduction of pollutants or changes in the volume or character of pollutants introduced into such treatment works is violated, he will notify the Regional Administrator in writing and take appropriate steps to assure compliance, including where necessary, the restriction or prohibition of introduction of pollutants into treatment works under Section 402(h) of the Federal Act.

X. 124.72(b) MODIFICATION, SUSPENSION AND REVOCATION OF NPDES PERMITS

- A. If an issued NPDES permit is subsequently revised, suspended, or modified, the Director shall notify the Regional Administrator of such revision or modification and provide the Regional Administrator up to 30 days from the date of the postmark of the notice in which to comment or object and make recommendations to the Director. The Regional Administrator shall respond no later than 30 days from the date of postmark of the notice and may request additional time (not to exceed a total of 40 days from the date of the postmark of the notice).
- B. If the Director upon request of the permittee, decides to make a revision, suspension, or modification of the NPDES permit for good cause, such as strikes, floods and acts of God, he shall notify the Regional Administrator in writing and, if no written objection or request for additional time (not to exceed a total of 40 days from the date of the postmark of the notice) is received from the Regional Administrator within 30 days of the date of the postmark of the notice, he shall deem it approved. Any such revision, suspension or modification of a schedule of compliance shall be included in proper time on the list submitted under Paragraph V of this Agreement.
- C. The Director will transmit to the Regional Administrator two (2) copies of any document modifying, suspending, or revoking an NPDES permit or schedule of compliance.

XI. 124.73(b) (2) EMERGENCY NOTIFICATION

The Director or his authorized representative will notify the Regional Administrator by telephone as soon as he is notified of any actual or threatened endangerments to the health or welfare of persons resulting from the discharge of pollutants. The Director or his authorized representative will utilize the telephone numbers identified in the current Regional Oil and Hazardous Materials Contingency Plan to notify the Regional Administrator. Telephone contact may be made with either the District Offices or the Regional Offices, as the Director determines appropriate.

XII. 124.80(d) CONTROL OF DISPOSAL OF POLLUTANTS INTO WELLS

The Regional Administrator will transmit to the Director any policies, technical information, or requirements specified by the Administrator in regulations issued pursuant to the Federal Act or in directives issued to the U.S. Environmental Protection Agency Regional Offices governing the disposal of pollutants into deep wells.



XIII. OTHER ITEMS

- A. Attached hereto is a list of all dischargers including major dischargers along with a schedule covering a six-month period for the processing of the permits for those dischargers. This schedule is the first part of a schedule aimed at issuing all permits to be issued in the State of Ohio by December 31, 1974. This schedule will be expanded by the Ohio EPA on a quarterly basis thereafter to schedule the remainder of the workload until all permits are issued. A copy of each quarterly schedule will be forwarded by the Ohio EPA to the Regional Administrator for his information.
- B. This Memorandum of Agreement may be modified by the Director and the Regional Administrator following the public hearing to evaluate the State's Section 402(b) program submittal on the basis of the issues raised at the hearing. The hearing record will be left open for a period of five days following the hearing to permit any person to submit additional written statements or to present views or evidence tending to rebut testimony presented at the public hearing. Any revisions of the Agreement following the public hearing will be finalized, reduced to writing, and signed by the Director and the Regional Administrator prior to forwarding of the recommendations of the Regional Administrator to the Administrator of U.S. EPA for review and approval. The Director and the Regional Administrator will make any such revised Agreement available to the public for inspection and copying.
- C. All Agreements between the State of Ohio and the Regional Administrator are subject to review by the Administrator of U.S. EPA. If the Administrator of U.S. EPA determines that any provisions of such Agreements do not conform to the requirements of Section 402(b) of the Federal Act or to the requirements of the Section 304(h) (2) Guidelines, he will notify the Ohio EPA and the Regional Administrator of any deficiencies, and the Agreement will be renegotiated in light of these comments.
- D. This Memorandum of Agreement will take effect upon signature of the Director and Regional Administrator and concurrence by the Administrator, U.S. EPA.
- E. No later than 120 days from the effective date of this Agreement, the Regional Administrator shall consider whether to waive his rights to receive, comment upon, object to any class or category of NPDES permit or reporting form. The Regional Administrator shall promptly notify the Director in writing of his decision.
- F. This Memorandum of Agreement shall remain in effect until modified or suspended.

Ohio Environmental Protection Agency

by

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Ira L. Whitman,  
Director

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Date

United States  
Environmental Protection Agency  
Region V

by

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Francis T. Mayo,  
Regional Administrator

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Date

Approved:

United States Environmental Protection Agency

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Administrator

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Date

## Ohio Environmental Protection Agency

## NPDES Permit Processing Schedule

December 1973 - June 1974

Month/Entity	Receiving Stream	Sub-basin	Application Number	County	District Office
Name	<i>December</i>	<u>DECEMBER</u>			
Imperial Glass Corp.			840		SE
Ferro Corp.			414		SE
Shell Chemical Company			716		SE
B. F. Goodrich			277		SE
Gould, Inc.			829		SE
American Aggregates Plt. 215			0413		SW
Brown-Bridge Mills			0993		SW
Gregory Stone Co.			0889		SW
Gulf Oil Co.			0150		SW
Hamilton Gravel Co.			0796		SW
Proctor & Gamble Co.			0449		SW
Proctor & Gamble			710702		NW
Ohio Electropolishing			-		NW
Centrex Corp.			710121		NW
Quaker Oats Co.			487		NW
Campbell Soup			710467		NW
Babcock & Wilcox			503		NE
Firestone Tire & Rubber			047		NE
Nye Rubber Co.			946		NE
SKF Industries			781		NE
Timken Research			092		NE

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SEDO

NPDES Permit Processing Schedule

December 1973 - June 1974

Month/Entity	Receiving Stream	Sub-basin	Application Number	County	District Office
<del>December</del> Logan Glass Plnt.-GE	December		391		SEDO
Marquette Cement Mfg.			675		SEDO
American, Aggregates			000416		SWDO
American Aggregates			000418		SWDO
Republic Steel			387		NE
Republic Steel			693		NE

## NPDES Permit Processing Schedule

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December

December 1973

Month/Entity	Receiving Stream	Sub-basin	Application Number	County	District Office
Adena	Short Creek	Ohio River	OH 0021661	Jefferson	NE
Amesville	Federal Creek	Hocking River	OH 0021253	Athens	SE
Beallsville	Trib. to Sunfish Creek	Ohio River	OH 0020885	Monroe	SE
Bellville	Clear Fork	Muskingum River	OH 0020256	Richland	NW
Bloomville	HONey Creek	Sandusky River	OH 0021032	Seneca	NW
Brilliant		Ohio River	OH 0021270	Jefferson	NE
Carey	Spring Run	Sandusky River	OH 0020206	Wyandot	NW
Carrollton	Indian Creek	Muskingum River	OH 0020931	Carroll	NE
Clarington		Ohio River	OH 0021636	Monroe	SE
Columbiana	Mill Creek	Mahoning River	OH 0021776	Columbiana	NE
Creston	Chippewa Creek	Muskingum River	OH 0020664	Wayne	NE
Elmore		Portage River	OH 002 1261	Ottawa	NW
Geneva	Cowles Creek	Lake Erie	OH 0020109	Ashtabula	NE
Genoa	Packer Creek	Lake Erie	OH 0021016	Ottawa	NW
Green Springs	Green Creek	Lake Erie	OH 0022578	Sandusky	NW
Greenwich	Vermillion River	Lake Erie	OH 0020486	Huron	NW
Hartville	Swartz Ditch	Muskingum River	OH 0020923	Stark	NE
Leetonia	Cherry Creek	Ohio river	OH 0021652	Columbiana	NE
Lexington	Clear Fork, Mohican River	Muskingum River	OH 0020257	Richland	NW
Lindsey	Muddy Creek	Lake Erie	OH 002 2489	Sandusky	NW
Madison #1	Arcola Creek	Lake Erie	OH 0023523	Lake.	NE

## NPDES Permit Processing Schedule

December 1973

December

Month/Entity	Receiving Stream	Sub-basin	Application Number	County	District Office
Madison #2	Arcola Creek	Lake Erie	OH 0023515	Lake	NE
Metamoras	Collins Run	Ohio River	OH 0022331	Washington	SE
Mingo Junction	Cross Creek	Ohio River	OH 0026565	Jefferson	NE
Monroeville	Huron River	Lake Erie	OH 0020095	Huron	NW
Navarre	Tuscarawas River	Muskingum River	OH 0020036	Stark	NE
New Boston		Ohio River	OH 0020613	Scioto	SE
Put-In-Bay		Lake Erie	OH 0022322	Ottawa	NW
Spencer	Tributary, E. Branch Black River	Lake Erie	OH 0022071	Medina	NE
Stratton		Ohio River	OH 0022225	Jefferson	NE
Toronto		Ohio River	OH 0020214	Jefferson	NE
Waynesburg	Big Sandy Creek	Muskingum River	OH 0022101	Stark	NE
Woodville		Portage River	OH 0020571	Sandusky	NW

December 1973 - June 1974

Month/Entity	Receiving Stream	Sub-basin	Application Number	County	District Office
JANUARY	January				
Interlake Inc.			710274		NWDO
orfolk & Western			710302		NWDO
ayes-Albion Corp.			710122		NWDO
ertain-Teed Prod.			155		NWDO
edusa Port. Cement			710268		NWDO
tandard Oil Toledo			710046		NWDO
anco Controls Div.			203		NWDO
opperweld Steel Co.			975975		NWDO
ledo Steel Tube			710126		NWDO
cehring Co./HPM Div.			870		NWDO
oehring Co./HPM Div.			871		NWDO
oehring Co./HPM Div.			872		NWDO
wens-Illinois			710294		NWDO
llied Chem. Corp.			710637		NWDO
wens-Illinois Dev.			710307		NWDO
ederal Mogul Corp			710271		NWDO
merican Ship Building			710281		NWDO
tokley-Van Camp			111		NWDO
hio Road Paving			346		NWDO
. A. Wintzer & Son			710063		NWDO
TE Sylvania			710448		NWDO
ledo Edison W. Sta.			710285		NWDO

# INTER-OFFICE COMMUNICATION

TO Mr. Edward F. Armstrong

DATE December 6, 1973

FROM: Shel Darity-WM&E *Shel*

SUBJECT: January Schedule of Water Treatment Plant Permits.

The following permits are scheduled for processing in January, 1974.

<u>District</u>	<u>Name</u>	<u>NPDES Appl. No.</u>
NE	Applegrove Water Co.	OH 0030210
NE	Avon Lake Utilities Dept.	OH 0030261
NE	Beach City Water Plant	OH 0029181
NE	Columbiana Water Plant	OH 0030881
NE	East Liverpool Filtration Plt.	OH 003041
NE	Garrettsville Water Works	OH 0029777
NW	Archbold Water Treatment Plt.	OH 0029840
NW	Arlington Municipal Water Works	OH 0030007
NW	Attica Water Treatment Plant	OH 0030511
NW	Bowling Green Water Trt. Plt.	OH 0030848
NW	Bryan Water Trt. Plt.	OH 0030481
NW	Village of Edgerton Water Supply	OH 0030562
SE	Athens Water Treatment Plant	OH 0030139
SE	Burr Oak State Water Supply (Athens)	OH 0030333
SE	Village of Frankfort	OH 0029998
SE	Village of Frazeyburg	OH 0029874
SE	Hopedale Water Works	OH 0030678
SW	Bethel Municipal Water Works	OH 0030571
SW	Village of Bradford	OH 0030465
SW	Cleves Water Works	OH 0029726
SW	Coldwater Water Supply	OH 0030660
SW	Fairfield Water Works	OH 0030729
SW	Fort Loramie Water Works	OH 0020012
C	Columbus Morse Rd. Water Plt.	OH 0030716
C	Harbor Hills Service Co.	OH 0029734
C	Hilliard Water Works	OH 0030597
C	Johnstown Water Trt. Plt.	OH 0030473
C	Nelson Rd. Plt. (Cols.)	OH 0030791
C	Sunbury Water Plt.	OH 0030681

January

cc: P. Flanigan-WM&E

cc: J. Shea-WM&E

cc: D. Duke-Surveillance



## NPDES Permit Processing Schedule

JANUARY 1974

*January*

Month/Entity	Receiving Stream	Sub-basin	Application Number	County	District Office
Aboldeen	Ohio River	Ohio River	OH 0023825	Brown	SW
Andover	Pymatuning River	Shenango River	OH 0023876	Ashtabula	NE
Apple Creek	Apple Creek	Muskingum River	OH 0023892	Wayne	NE
Attica	Honey Creek	Sandusky River	OH 0023957	Seneca	NW
Barnesville	North Fork, Captina Creek	Ohio River	OH 0024015	Belmont	SE
Beloit	Mahoning River	Mahoning River	OH 0024091	Mahoning	NE
Bergholz	Yellow Creek	Ohio River	OH 0029173	Jefferson	NE
Byesville	Wills Creek	Muskingum River	OH 0024287	Guernsey	SE
Cadiz	Short Creek	Ohio River	OH 0024295	Harrison	NE
Canfield	MEander Creek	Mahoning River	OH 0024341	Mahoning	NE
Clay Center	Turtle Creek	Lake Erie	Oh 0029360	Ottawa	NW
Clyde	Raccoon Creek	Lake Erie	OH 0024686	Sandusky	NW
Coal Grove	Ohio River	Ohio River	OH 0029432	Lawrence	SE
Coldwater	Coldwater Creek	Wabash River	OH 0024694	Mercer	NW
Crooksville	Moxahala Creek	Muskingum River	OH 0028959	Perry	SE
Cumberland	Buffalo Fork	Muskingum River	OH 0029416	Guernsey	SE
Cygnnet	Rocky Ford	Lake Erie	OH 0029327	Wood	NW

# NPDES Permit Processing Schedule

January

January 1974

Month/Entity	Receiving Stream	Sub-basin	Application Number	County	District Office
Dillonvale	Short Creek	Ohio River	OH 0024937	Jefferson	NE
Dresden	Muskingum River	Muskingum River	OH 0024953	Muskingum	SE
Fredericktown	Kokosing River	Muskingum River	OH 0025283	Knox	NW
Gambier	Kokosing River	Muskingum River	OH 0025321	Knox	NW
Garrettsville	Eagle Creek	Mahoning River	OH 0025330	Portage	NE
Gibsonburg	Nine Mile Creek	Lake Erie	OH 0029122	Sandusky	NW
Harbor View	Lake Erie	Lake Erie	OH 0029483	Lucas	NW
Heath	South Fork, Licking River	Muskingum River	OH 0025763	Licking	SE
Hiram	Silver Creek	Mahoning River	OH 0025801	Portage	NE
Holloway	Stillwater Creek	Muskingum River	OH 0029297	Belmont	SE
Hubbard	Little Yankee Creek	Shenango River	OH 0025810	Trumbull	NE
Jacksonville	Sunday Creek	Hocking River	OH 0029467	Athens	SE
Jamestown	South Fork, Caesar Creek	Little Miami River	OH 0025879	Greene	SW
Jefferson	Mill Creek	Lake Erie	OH 0025887	Ashtabula	NE
Jeromesville	Jerome Fork	Muskingum River	OH 0020732	Ashland	NE
Killbuck	Killbuck Creek	Muskingum River	OH 0025933	Holmes	NE
Lore City	Leatherwood Creek	Muskingum River	OH 0021020	Guernsey	SE
Loudonville	Black Fork	Muskingum River	OH 0020966	Ashland	NE
Louisville	Nimishillen Creek	Muskingum River	OH 0026182	Stark	NE

## NPDES Permit Processing Schedule

January

January 1974

Month/Entity	Receiving Stream	Sub-basin	Application Number	County	District Office
Lowellville	Mahoning River	Mahoning River	OH 0026204	Mahoning	NE
Lynchburg	Little Miami River	Little Miami River	OH 0022667	Highland	SW
Lyons	Raisin River	Lake Erie	OH 0029408	Fulton	NW
McComb	Algire Creek	Lake Erie	OH 0026263	Hancock	SW
McDonald	Mahoning River	Mahoning River	OH 0022586	Trumbull	NE
Mt. Pleasant	Short Creek	Ohio river	OH 0029335	Jefferson	NE
Newcomerstown	Tuscarawas	Muskingum River	OH 0026689	Tuscarawas	NE
New Waterford	North Fork, Little Beaver Creek	Ohio river	OH 0026735	Columbiana	NE
Ontario (to Mansfield)	Rocky Fork	Muskingum River	OH 0029301	Richland	NW
Ontario	Rocky Fork	Muskingum River	OH 0029319	Richland	NW
Pemberville	Portage River	Lake Erie	OH 0026972	Wood	NW
Plymouth	West Branch, Huron River	Lake Erie	OH 0027065	Richland/Huron	NW
Powhatan Pt.	Ohio River	Ohio River	OH 0027219	Belmont	SE

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## NPDES Permit Processing Schedule

February

February  
JANUARY 1974

Month/Entity	Receiving Stream	Sub-basin	Application Number	County	District Office
Shawnee	Sunday Creek	Hocking River	OH 0029351	Perry	SE
Shiloh	West Branch, Huron River	Lake Erie	OH 0027405	Richland	NW
South Lebanon	Little Miami River	Little Miami River	OH 0027456	Warren	SW
South Zanesville	Muskingum River	Muskingum River	OH 0027464	Muskingum	SE
Stryker	Tiffin River	Maumee River	OH 0022497	Williams	NW
Thornville	South Fork, Licking River	Muskingum River	OH 0027723	Perry	SE
Tiro	Honey Creek	Sandusky River	OH 0029220	Crawford	NW
Tuscarawas	Tuscarawas River	Muskingum River	OH 0027855	Tuscarawas	NE
Washingtonville	Middle Fork, Little Beaver Creek	Ohio River	OH 0028011	Columbiana	NE
Wellington	Wellington Creek	Black River, LE	OH 0028037	Lorain	NE
Willard	Huron river	Lake Erie	OH 0028118	Huron	NW
Wilmington	Todd Run	Little Miami River	OH 0028134	Clinton	SW
Wilson	Sunfish Creek	Ohio River	OH 0029424	Monroe	SE
Windham	Eagle Creek	Mahoning River	OH 0022501	Portage	NE
Woodsfield	Standing Stone Run	Ohio River	OH 0028177	Monroe	SE
Yorkville	Deep Run	Ohio River	OH 0022543	Jefferson	NE

## Ohio Environmental Protection Agency

## NPDES Permit Processing Schedule

December 1973 - June 1974

February

February

Month/Entity	Receiving Stream	Sub-basin	Application Number	County	District Office
Stockport	—	Maskingum R.	OH 0020249	Morgan	SE
New Richmond	—	Ohio R.	OH 0021156	Clermont	SW
Pomeroy	—	Ohio R.	OH 0021725	Meigs	SE
Nelsonville	—	Hocking R.	OH 0022541	Athens	SE
Williamsburg	East Fork	Little Miami	OH 0021571	Clermont	SW
Waynesville	—	" "	OH 0020753	Warren	"
South Charleston	Gilroy Ditch	" "	OH 0020052	Clark	"
Milford	East Fork	" "	OH 0020451	Clermont	"
Mason	Muddy Cr.	" "	OH 0020494	Warren	"
Loveland (2 Ylts)	—	" "	OH 0020419	Hamilton Clermont Warren	"
Bethel	Town Branch	" "	OH 0023588	Clermont	"
Blanchester	—	" "	OH 0021733	Clinton	"
Lebanon	Turtle Cr.	" "	OH 0021059	Warren	"
Cedarville	Mossy Cr.	" "	OH 0020010	Greene	"
Rio Grande February	Indian Creek	Ohio River	OH 0027278	Gallia	SE
St. Clairsville(North)	Town Run	Ohio River	OH 0027294	Belmont	SE
St. Clairsville(south)	Aults Run	Ohio River	OH 0027308	Belmont	SE
St. Martin	East Fork, Little Miami River	Little Miami River	OH 0022527	Brown	SW
Scio	Conotton Creek	Muskingum River	OH 0029271	Harrison	NE
Seville	Chippewa Creek	Muskingum River	OH 0027375	Medina	NE
Shadyside	Ohio River	Ohio river	OH 0027383	Belmont	SE

## OHIO Environmental Protection Agency

## NPDES Permit Processing Schedule

December 1973 - June 1974

*February*

Month/Entity	Receiving Stream	Sub-basin	Application Number	County	District Office
Name	<i>February</i> <del>JANUARY 1974</del>				
General Electric			674		NE
Liquid Treatments, inc.			050		NE
Massillon Steel			296		NE
Norton Company			731		NE
Orrville Bronze & Aluminum			878		NE
White Engines, Inc.			467		NE
Akron Brass Co.			953		NE
B. B. Parent Farm			347		NE
Belden Brick #5			947		NE
Carnation Co.			572		NE
Culligan Water			941		NE
Diamonite Prod. Mfg.			903		NE
Gerstenslager Co.			989		NE
Holmes Limestone Div.			473		NE
Philway Prod.			739		NE
Scio Pottery Co.			517		NE
Union Carbide Corp.			041		NE
IRC			349		NE
Kaiser Refractories			384		NE

## NPDES Permit Processing Schedule

December 1973 - June 1974

*February*

Month/Entity	Receiving Stream	Sub-basin	Application Number	County	District Office
February					
Rudolph Foods			710061		NWDO
L.O.F. Rossford			710041		NWDO
Norfolk & Western			710283		NWDO
Empire-Det. Steel/Cyclop			682		NWDO
Western Ohio Stone/P. 1					NWDO
Western Ohio Stone P. 2					NWDO
Marion Power Shovel			775775		NWDO
Eaton Corp./Frig. Div.			034		NWDO
Pet Inc.			710123		NWDO
Owens-Illinois Levis Dev.			710295		NWDO
Defiance Fertilizer			735010		NWDO
Stokley Van Camp					NWDO
Cont.Can Co. Fibre Drv.			710458		NWDO
GE/Hermetic Motor			586		NWDO
United Aircraft Prod.			720010		NWDO
Beatrice Foods Co.			710242		NWDO
Pet Inc. Gr. Pr.					NWDO
Avco New Idea			132		NWDO
GMC-Chev. Motor			710117		NWDO
Std. Oil Co.			710303		NWDO
Arco Pipeline			710293		NWDO
Derwacter S & G			792		NWDO

February

December 1973 - June 1974

Month/Entity	Receiving Stream	Sub-basin	Application Number	County	District Office
<i>February, continued</i>					
Dayton Malleable Iron			000523		SWDO
Frigidaire Division, GMC			000238		SWDO
Frigidaire Division GMC			000239		SWDO
Hobart Brothers			000657		SWDO
Corning Glass Company			000631		SWDO
U. S. Plywood-Champion			000601		SWDO
Nicolet Industries			000697		SWDO
West Carrollton Parchment					SWDO
Beatrice Foods <i>q</i>			000242		SWDO
Republic Steel	<i>February</i>		696		NE
Yoder Brothers, Inc.			395		NE
Yoder Brothers, Inc.			396		NE
Valley Mold Iron			544		NE
Portex			418		NE
Belden Brick Plt. 8			954		NE
Clay Craft Co.			795		NE
Cons'ld Gas Supply			211		NE
E. Ohio Limestone			291		NE
Evans Brick & Pipe			495		NE
Fanner Mfg. Co. <i>11</i>			079		NE



February

American Aggregates			000419	SWDO
Chicago Vitreous			000687	SWDO
Dayton Steel Foundry			000587	SWDO
Inland Division, GMC			000247	SWDO
W. B. Marvin Manufacturing			000598	SWDO
Northwood Stone			000867	SWDO
AMF Electrosystems			000522	SWDO
Dayton Manufacturing				SWDO
Standard Register			000706	SWDO
Standard Register			000716	SWDO
E. I. DuPont			000626	SWDO
B. F. Goodrich			000134	SWDO
Copeland Refrigeration			000493	SWDO
Dayton Tire and Rubber			000095	SWDO
TRW, Globe Industries			000045	SWDO
TRW, Globe Industries			000046	SWDO

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## NPDES Permit Processing Schedule

December 1973 - June 1974

February

Month/Entity <i>February, cont'd</i>	Receiving Stream	Sub-basin	Application Number	County	District Office
Columbia Gas of Ohio			334		SEDO
Ohio Power Co.			516		SEDO
Ohio Valley Elec./Kgyer.			371		SEDO
Tri-State Mat. Corp.			499		SEDO
Ohio Valley Pav. Corp.			937		SEDO
Brockway Glass Co.			671		SEDO
Belden Brick Co.			974		SEDO
AMETEK/March Electric			934		SEDO
Columbus & South. Elec. <i>or</i>			384		SEDO

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February

Interlake Inc. <i>February</i>			798	SEDO
Union Slag Corporation			472	SEDO
Union Slag Corporation			256	SEDO
Armco Steel Corporation			686	SEDO
Grief Brothers Corp.			98	SEDO
Norfolk & Western R.R.			360	SEDO
Columbia Gas. Tran. Corp.			494	SEDO
Central Silica Co.			416	SEDO
Hull Pottery Company			380	SEDO
Olin Corporation			76	SEDO
Sun Oil Co.			839	SEDO
Wheeling-Pitts. Steel			322	SEDO
Robinson Ransbottom Pt.			469	SEDO
Richards & Sons Inc.			181	SEDO
Nelson-McCoy Pot Co.			136	SEDO
Ludowich-Celadon Co.			219	SEDO
Union Carbide/Ferro			41	SEDO

## NPDES Permit Processing Schedule

December 1973 - June 1974

*March*

Month/Entity	Receiving Stream	Sub-basin	Application Number	County	District Office
<i>March Continued</i>					
Marble Cliff Quarries			293		SEDO
Mead Paper Corp.			2000		SEDO
Morrow Gravel			1106		SEDO
PPG Ind.			116		SEDO
Scioto Coca-Cola Bottl.			939		SEDO
Sun Oil Co./Cols. Term.			838		SEDO
Texaco Inc.			840		SEDO
Union Carbide/Linde Div.			986		SEDO
Union 76/Eastern Reg.			782		SEDO
U. S. Gypsum/AP Green					
Cedar Heights Clay			012		SEDO
C. & S. O. Electric			385		SEDO
<i>41</i>					
	<i>March</i>		177		NE
TRW			126		NE
Universal Cyclops			084		NE
Union Malleable					
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December 1973 - June 1974

*March*

Month/Entity	Receiving Stream	Sub-basin	Application Number	County	District Office
<i>March control</i>					
Celanese Plast.			897		SEDO
Goodyear Aero./Com/Pl.			343		SEDO
Jackson Pike S & G			423		SEDO
Sharon Silica Co.			171		SEDO
Standard Oil/Wil.Term.			591		SEDO
Standard Oil/Co. Airport			592		SEDO
Taylor Stone			252		SEDO
American Zinc Co.			415		SEDO
Armstrong Furnace Co.			344		SEDO
Batelle Memorial Ins.			399		SEDO
Buckeye Steel Cast.			642		SEDO
Claycraft Co.			796		SEDO
Columbus Bitum. Conc.					SEDO
Columbus Forge & Iron			724		SEDO
Cons. Biomed. Lab.			329		SEDO
Crane Plastics Inc.			655		SEDO
E. I. DuPont			567		SEDO
IPM Corp. ) Cols. Plnt.			907		SEDO
Marble Cliff Quarries			294		SEDO

NPDES Permit Processing Schedule

December 1973 - June 1974

*March*

Month/Entity	Receiving Stream	Sub-basin	Application Number	County	District Office
Name	<i>March</i> <del>JANUARY-1974</del>				
Dairy Pak			210		NE
Darling & Co.			400		NE
Eagle Picher Ind.			906		NE
Eaton Corp.			333		NE
Eaton Corp.			548		NE
Eclat Rubber			767		NE
Eclat Rubber			602		NE
E.I. duPont			334		NE
Elco Corp.			332		NE
Ferro Corp.			121		NE
Firestone			960		NE
Firestone			292		NE
Flintkote			352		NE
Flintkote Co.			579		NE
General Electric			403		NE
General Electric			426		NE
General Electric			638		NE
General Electric			086		NE
General Tire & Rubber			071		NE

NPDES Permit Processing Schedule

December 1973 - June 1974

*March*

Month/Entity	Receiving Stream	Sub-basin	Application Number	County	District Office
Name <i>March</i>	<i>March</i> <del>February</del> <u>JANUARY-1974</u>				
B. F. Goodrich			403		NE
B. F. Goodrich			053		NE
Black & Decker			289		NE
Bradley Metal			385		NE
C & O RR			035		NE
C & O RR			034		NE
Chrysler Corp. (Twinsburg)					NE
Cleveland Electric Ill.			358		NE
Continental Oil			320		NE
Cormax Metal			559		NE
Cuyahoga Smelting			473		NE
Ford Motor			371		NE
Ford Motor			372		NE
Goodyear Aerospace			310		NE
Lamson & Sessions			551		NE
Sand Pit Prod.			608		NE
Standard Oil			081		NE
Crambe Enterprises			635		NE
Cuyahoga Meat Co.			539		NE

NPDES Permit Processing Schedule

December 1973 - June 1974

*March*

Month/Entity	Receiving Stream	Sub-basin	Application Number	County	District Office
<i>March</i> Name	<del>February</del> <u>JANUARY-1974</u>	<i>March</i>			
U.S. Ceramic Tile			427		NE
Weatherhead Co.			215		NE
Whitacre Greer			128		NE
Whitacre Greer			129		NE
Be-Kan, INC.			139		NE
Bendix-Westinghouse			380		NE
C & O RR			033		NE
Columbia Gas			181		NE
Columbia Gas			182		NE
National Screw & Mfg.			421		NE
A. C. Williams			580		NE
A. C. Williams			581		NE
A. C. Williams			537		NE
A. C. Williams			538		NE
Akron Packing			533		NE
Allied Chem. Corp.			445,		NE
Alloys & Chemicals			022		NE
Ametek/Lamb			425		NE
Asso. Japanning			257		NE



## NPDES Permit Processing Schedule

December 1973 - June 1974

*March*

Month/Entity	Receiving Stream	Sub-basin	Application Number	County	District Office
<i>March listed</i>					
Hamilton Mun., Power			000817		SWDO
International Harvester			000684		SWDO
Metallurgical Surv.			000873		SWDO
Monsanto Research			000496		SWDO
Mound Laboratory			000538		SWDO
Ohio Edison			000422		SWDO
Ohio Edison			000423		SWDO
Piqua Mun. Power			000838		SWDO
Sherwin-Williams			000742		SWDO
Std. Molding			000526		SWDO
Standard Oil: Monroe			000720		SWDO
Standard Oil: Vandalia			000081		SWDO
Aeronca			000082		SWDO
ARMCO Steel			000589		SWDO
ITE Imperial			000221		SWDO
ITE Imperial			000222		SWDO
International Harvester			000580		SWDO
Mobil Chemical			000108		SWDO

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December 1973 - June 1974

*March*

Month/Entity <i>March Entity</i>	Receiving Stream	Sub-basin	Application Number	County	District Office
NCR			000020		SWDO
Pillsbury Corporation			000191		SWDO
Chrysler Corporation			000097		SWDO
Chrysler Corporation			000098		SWDO
A. O. Smith Corporation			000694		SWDO
Price Brothers			000962		SWDO
Ross Aluminum			000951		SWDO
Richardson Electroplating			000711		SWDO
Montgomery Co.-Incinerator			000909		SWDO
Armco Steel			000590		SWDO
Armco Steel			000591		SWDO
Howard Paper Company			000258		SWDO
Howard Paper Company			000259		SWDO
Howard Paper Company			000451		SWDO
Square"D"			000026		SWDO
Crystal Tissue			000272		SWDO
Harding-Jones Paper			000075		SWDO
Kelsey-Hayes			000091		SWDO
Berstrom Paper			000194		SWDO

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March

[illegible]

## NPDES Permit Processing Schedule

December 1973 - June 1974

*March*

Month/Entity	Receiving Stream	Sub-basin	Application Number	County	District Office
Name	March-1974				
Vistron			067		NW
Inland Chem. Cor.			272		NW
Uniroyal			263		NW
Stokley-Van Camp			229		NW
Sandusky Crush Stone			552		NW
Scott Paper Co			130		NW
Remington Arms Co.			456		NW
Hooker Chemical & Plastics			669		NW
Gen. Portland Cement			241		NW
Maumee Stone			735		NW
Sun Oil (Marine Term)			234		NW
Colum. Gas Trans/WVR			492		NW
Claycraft Co.			491		NW
Lima Register Co.			664		NW
Ohio Lime			050		NW
Indeptdt Plast. Prod.			279		NW
Standard Tube Co.			732		NW
RCA Corp.			127		NW
Standard Oil			052		NW
Mansfield Lahm Airp			783		NW
Ford Motor Co/Lima			470		NW
Buckeye Sugars			463		NW
GMC-Chevrolet Division			095		NE
Goodyear Aerospace			342		NE
Goodyear			343		NE
Goodyear Aerospace			570		NE
Goodyear Tire & Rubber			113		NE
Diary Pak			215		NE

Gould Inc.			581	SEDO
Ohio Power/Musk. River	<u>March</u>		525	SEDO
Resinoid Eng. Cor.			482	SEDO
Koppers Co.			336	SEDO
Sperry Rand Corp.			727	SEDO
Stewart Broth. Excav.			898	SEDO
U. S. Gyps./AP Green			980	SEDO
American Agg. Corp.			584	SEDO
American Agg. Corp.			586	SEDO
American Agg. Corp.			587	SEDO

<u>match</u> C & O, B & O			000058	SWDO
Dayton Power and Light			000113	SWDO
Dayton Power and Light			000114	SWDO
Dayton Power and Light			000115	SWDO
Dayton Power and Light			000116	SWDO
Dayton Power and Light			000117	SWDO
Premium Rubber Manufacturing			000288	SWDO
Delco Products, GMC			000244	SWDO
Inland Division, GMC			000246	SWDO
Gra Iron Foundry			000874	SWDO

*April*

Hamilton Kent	<i>April</i>		262	NE
International Salt			112	NE
Jones & Laughlin			303	NE
Kewanee Oil			256	NE
Lester, Ind.			065	NE
Lincoln Electric			525	NE
M & M Sand & Gravel			464	NE
Marquette Metal			600	NE
Norton Company			518	NE
Norton Company			519	NE
Norton Company			578	NE
Ohio Edison			076	NE

## NPDES Permit Processing Schedule

December 1973 - June 1974

*April*

Month/Entity	Receiving Stream	Sub-basin	Application Number	County	District Office
<i>April</i> June Cont Oil Co.			710059	Allen	
Atech Chemical Coatings			720327	Lucas	
Celotex Corp				Ottawa	
Borg Warn Cor/Plum			647	Richland	
EX-Cell-O Corp				Allen	
Crown Controls Corp			710806	Auglaize	
Landmark-Sims Fert			421	Morrow	
Std Oil Co			710068	Allen	
Shellar Globe Cor			710601	Allen	
Corrugated Box Plant			431	Richland	
Tri County Limestone			801	Hardin	
Walter & Sons			844	Auglaize	
Michigan Stone			710726	Lucas	
Natl Lime & Stone			393	Crawford	
Dinner Bell Foods			710603	Fulton	
Dinner Bell Foods				Defiance	
Colorado Mfg Corp			710466	Williams	
Hardin Quarry			710794	Hardin	
AMETEK/Westchester				Auglaize	
Webster MC			576	Seneca	
Toledo Stone & Glass			710716	Lucas	
Swift Edible Co.			710588	Seneca	

## NPDES Permit Processing Schedule

December 1973 - June 1974

*April*

Month/Entity	Receiving Stream	Sub-basin	Application Number	County	District Office
<i>April</i> May Teledyne CAE Ashland Oil Chrysler Corp. Mansfield Graphics Midland Ross Corp. Maumee Stone J. M. Hamilton Sons Lake Erie Can Goodyear Tire & Rub Natl Lime & Stone Jeep Corp. CPC Internl Shell Oil Co. U.S. Gypsum Natl Lime & Stone Kellstone Am Asphalt Prod Seneca Wire & Mfg Nabisco Inc. Natl Gypsum Bluffton Stone Pioneer Rubber			710264 710302 710056 011 710733 032  710281 710129 711138 710237 710260 710304  710819 710266 710776 710636 710730	Lucas Lucas Wood Richland Lucas Wood Marion Erie Auglaize Auglaize Lucas Lucas Lucas Ottawa Allen Erie Lucas Seneca Lucas Sandusky Allen Huron	



*April*

NPDES Permit Processing Schedule

December 1973 - June 1974

Month/Entity	Receiving Stream	Sub-basin	Application Number	County	District Office
Name	APRIL -1974				
Toledo Ed/Acme Station			284		NW
Toledo Ed/Bayshore			265		NW
Am Malleable Cast			561		NW
Penn Central RR					NW
Mansfield Tire & Rubber			524		NW
Ohio Brass			324		NW
Col Gas Trans/PVNA			492		NW
Great Lakes Carbon Cor.			331		NW
Defiance Milk Prod.			278		NW
E. I. dupont de memors			053		NW
Standard Lime & Refrac.			118		NW
Maumee Stone			734		NW
Rockford Stone			613		NW
John W. Karch Stone			256		NW
American Cyanamid Co.			514		NW
Shell Oil			761		NW
North American Rockwell			723		NW
Minster Machine			299		NW
Nicholson Concrete			465		NW
National Lime Stone			547		NW
Boich Lime & Coal					
National Std/Rawls Div.			639		NW

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*April*

NPDES Permit Processing Schedule

December 1973 - June 1974

Month/Entity	Receiving Stream	Sub-basin	Application Number	County	District Office
Name	<i>April</i> <del>JANUARY-1974</del>				
Akron Standard			900		NE
Master Anodizer			506		NE
Ward-Riddle Co.			1017		NE
Borg-Warner			590		NE
Target Stamped Prod.			084		NE
Union Carbide			009		NE
Manf. Plant Wright Tool			923		NE
Oster Sand & Gravel, Inc.			498		NE
Republic Steel			695		NE

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April

## NPDES Permit Processing Schedule

December 1973 - June 1974

Month/Entity	Receiving Stream	Sub-basin	Application Number	County	District Office
Name	<i>April</i> JANUARY - 1974				
Norfolk & Western RR			562		NE
N. American Rock.			342		NE
N. American Rock.			341		NE
H. K. Porter			185		NE
H. K. Porter			433		NE
H. K. Porter			435		NE
Ohio Brass Co.			325		NE
Ohio Match Co.			201		NE
Standard All/Trans.			1102		NE
Standard International			401		NE
Standard Oil Corp.			306		NE
Sterling China			925		NE
Sterling Foundry			108		NE
Sun Oil			712		NE
United Eng. & Foundry			550		NE
Warner & Swasey			108		NE

## NPDES Permit Processing Schedule

December 1973 - June 1974

Month/Entity	Receiving Stream	Sub-basin	Application Number	County	District Office
Name	<i>April</i> <del>JANUARY</del> - 1974				
Cleveland Electric Ill.			357		NE
Columbus & Southern Ohio El.			383		NE
Cons. Nat. Gas Ser.			045		NE
Crane Co.			056		NE
Cuyahoga Molded Plastics			449		NE
E. Sparta Works Plt.			1033		NE
Emerson Electric			441		NE
EP Ind.			900		NE
Fairfield Brick Co.			368		NE
Federal Paper Board Co.			349		NE
Fred J. Dando			761		NE
General Amer. Trans.			403		NE
General Tire & Rubber			505		NE
Glen-Gery Corp.			265		NE
Hall China			358		NE
Harrold Tool			064		NE
Harbinson-Walker/Dres.			535		NE
Kinsman			071		NE
Metropol. Ind.			1221		NE

## NPDES Permit Processing Schedule

December 1973 - June 1974

*April*

Month/Entity	Receiving Stream	Sub-basin	Application Number	County	District Office
Name	<i>April</i> <del>JANUARY</del> - 1974				
Standard Oil #2			058		NE
Standard Oil			080		NE
Standard Oil			274		NE
Standard Slag			601		NE
Tecumseh Corr.			307		NE
Texaco			470		NE
Warner & Swasey					NE
S. K. Wellman			017		NE
White Trucks					NE
Zirconium Corp.					NE
Abex Cor./Am. Brakebl.			023		NE
Adjusta-Post Mfg.			991		NE
Alliance Mfg. Co.			1015		NE
Airco Welding Prod.			258		NE
Allied Oil Co./Whisk.			433		NE
Barium & Chem.			588		NE
Cleveland Electric Ill.			355		NE
Cleveland Electric Ill.			354		NE
Cleveland Electric Ill.			356		NE

NPDES Permit Processing Schedule

December 1973 - June 1974

*April*

Month/Entity	Receiving Stream	Sub-basin	Application Number	County	District Office
Name	<i>April</i> <u>JANUARY - 1974</u>				
Ohio Edison			075		NE
Pacific Coast Co.			302		NE
Parr, Inc.			134		NE
Pharmaseal Tall.			616		NE
RCA			568		NE
Republic Steel			327		NE
Republic Steel			328		NE
Republic Steel			388		NE
River Smelting			037		NE
Shell Oil Co.			016		NE
Sherwin Williams Co.			154		NE
Standard Oil			080		NE
Standard Oil			280		NE
General Electric			403		NE
General Tire & Rubber			505		NE
Gould, Inc.			581		NE
Hospitality Motor					NE
Medical Mfg.			312		NE
Paramount Distillers					NE

3.4 Ohio Environmental Protection Agency Regulations

EP-1-01 through 10

Water Quality Standards

EP-31-01 through 09

Ohio NPDES Permit

EP-40-01 through 30

Rules of Procedure



**REGULATION EP-1**

# **WATER QUALITY STANDARDS**



## INTRODUCTORY NOTE

This document contains the revised Water Quality Standards of the State of Ohio, effective July 27, 1973. The standards were adopted by the Director of the Ohio Environmental Protection Agency as authorized in Section 6111.041 of the Ohio Revised Code, after public hearing and an extensive period of review and comment by governmental, industrial, environmental and public spokesmen. The standards are based upon scientific and technical knowledge accumulated by the Ohio Environmental Protection Agency and the United States Environmental Protection Agency as to the quality of waters of the State of Ohio required to sustain the following beneficial uses: municipal, agricultural and industrial water supplies, well balanced aquatic life habitat, and recreational activities.

At the time of the adoption of these Water Quality Standards, the principal means of regulating sources of water pollution are defined in the amendments to the Federal Water Pollution Control Act, P.L. 92-500, adopted by Congress on October 18, 1972. This act sets forth a national program for water pollution control permits, (Section 402), known as the "National Pollutant Discharge Elimination System" or NPDES. Ohio's revised Water Quality Standards are consistent with the requirements of the Federal Amendments, as described in Section 303 of the Act. The relationship between Ohio's revised Water Quality Standards and the NPDES permit program is a complex one. The Standards serve as the objectives to be ultimately attained for water quality of the waters of the state. In the enforcement process, the Standards serve as a basis for calculating appropriate effluent limitations which are then incorporated into the NPDES permit conditions for those sources of water pollution where the applications of minimum effluent standards will not result in the attainment of the Water Quality Standards. In any area where the application of Federally defined "best available control technology economically achievable" by all dischargers will not result in meeting the adopted Water Quality Standards, the Standards may be waived.

Determination of effluent limitations required for NPDES

permits will be made by the Ohio Environmental Protection Agency and the U.S. Environmental Protection Agency for all point sources of water pollution prior to December 31, 1974. Ohio is currently in the process of applying for "permanent" authorization from the Administrator of the U.S. Environmental Protection Agency for issuing NPDES permits, under authority provided by the Ohio General Assembly in Section 6111.03 of the Ohio Revised Code. The interrelationship between the revised Water Quality Standards and the Ohio NPDES permit program for water pollution control will be more fully elaborated in a forthcoming set of regulations of the Ohio Environmental Protection Agency entitled EP-31. Ohio NPDES Discharge Permit Regulations.

Questions about these Standards, and the Ohio Environmental Protection Agency water pollution control program are welcomed and should be addressed to the Division of Surveillance at the nearest Ohio EPA district office:

Ohio EPA  
Northeast District Office  
2110 East Aurora Road  
Twinsburg, Ohio 44087

Ohio EPA  
Northwest District Office  
111 West Washington Street  
Bowling Green, Ohio 43402

Ohio EPA  
Southeast District Office  
R.R. 2, Box C-1  
Nelsonville, Ohio 45764

Ohio EPA  
Southwest District Office  
40 South Main Street  
Dayton, Ohio 45402

Ira L. Whitman, Director  
Ohio Environmental Protection Agency  
July 27, 1973

EP-1. WATER QUALITY STANDARDS

EP-1-01 Classification of Waters of the State.

- (A) Except as specified in subsection (B) below, all surface waters of the state are hereby classified as appropriate for warm water fisheries, for primary contact recreation, for processing by conventional treatment into public, industrial, and agricultural water supplies, and for such other uses as are identified for specific uses in subsequent sections of this Chapter, EP-1, of the Regulations of the Ohio EPA.
- (B) The water quality standards set forth in this Chapter, EP-1, of the Regulations of the Ohio EPA, shall not apply.
  - (1) Whenever the flow falls below the annual minimum 7 day average flow that has a recurrence period of once in ten years taking into account hydraulically altered flow regimes, calculated by the methods described in H. C. Riggs, Techniques of Water-Resources Investigation of the United States Geological Survey, Chapter B 1, Low-Flow Investigations (Washington, D. C., 1972); or
  - (2) Where a portion of a watercourse is determined to be a low-flow stream. The term "low-flow stream" means that portion of a watercourse where:
    - (a) the total upstream drainage area is less than five square miles, and
    - (b) less than 50% of the flow would be present if there were no point source wastewater discharges for 15% of any two consecutive year period during the ten years preceding July 1, 1974.

Discharges to low-flow streams as described by this subsection, EP-1-01 (B)(2), commenced on or before July 1, 1974, will be required to either meet water quality standards or be treated by "the best available control technology economically achievable" as defined by the Administrator of the United States Environmental

Protection Agency under the Federal Water Pollution Control Act Amendments of 1972, whichever is less stringent: and water discharge permits for such discharges will contain effluent levels that would be reached by such treatment. The standards set forth in this Chapter, EP-1, of the Regulations of the Ohio EPA, shall apply to low-flow streams for discharges commenced after July 1, 1974. Such discharges shall not interfere with the attainment or maintenance of the water quality standards set forth in this Chapter.

Existing Water Quality Standards except to the extent preserved by EP-1-05 and EP-1-06 are rescinded.

(Adopted July 27, 1973;  
Effective July 27, 1973)

EP-1-02 General Standard. Except as sections EP-1-01 (A) through (B) and sections EP-1-03 through EP-1-07 of these regulations establish different standards, the water quality standards of the state shall be as follows:

- (A) Within 500 yards of any public water supply intake,
  - (1) dissolved solids may exceed one, but not both, of the following:
    - (a) 500 mg/l as a monthly average nor exceed 750 mg/l at any time, or
    - (b) 150 mg/l of dissolved solids attributable to human activities; and
  - (2) phenols (storet number 32730) shall not exceed 1.0 ug/l; and
  - (3) nitrate (N) (storet number 00620) shall not exceed 8 mg/l; and
  - (4) dissolved iron (storet number 01046) shall not exceed 300  $\mu$ g/l; and
  - (5) chromium (hexavalent)(storet number 01032) shall not exceed 10  $\mu$ g/l; and
  - (6) cyanide (storet number 00720) shall not exceed .001 mg/l.
- (B) Within 500 yards of any water supply intake, dissolved solids may exceed one, but not both, of the following:
  - (1) 500 mg/l as a monthly average nor exceed 750 mg/l at any time, or
  - (2) 150 mg/l of dissolved solids attributable to human activities; and
- (C) Dissolved oxygen shall not be less than a daily average of 5.0 mg/l nor less than 4.0 mg/l at any time.

- (D) pH shall not be less than 6.0 and shall not be more than 9.0 at any time except that it may be less than 6.0 or more than 9.0 if there is no contribution of acidic or alkaline pollution attribution to human activities.
- (E) Fecal coliform content (either MPN or MF count) shall not exceed 200 per 100 ml as a 30 day geometric mean based on not less than five samples during any 30 day period nor exceed 400 per 100 ml in more than ten percent of all samples during a 30 day period.
- (F) Dissolved solids may exceed one, but not both of the following:
  - (1) 1500 mg/l
  - (2) 150 mg/l attributable to human activities.
- (G) Lake water temperature shall not exceed by more than three degrees fahrenheit (1.7 degrees centigrade) the water temperature which would occur if there were no temperature change of such waters attributable to human activities, and stream water temperature shall not exceed by more than five degrees fahrenheit (2.8 degrees centigrade) the water temperature which would occur if there were no temperature change of such waters attributable to human activities. Notwithstanding the foregoing standard, at no time shall water temperature exceed the maximum temperatures indicated in the following table:

MAXIMUM TEMPERATURE IN DEGREES CENTIGRADE & FAHRENHEIT DURING MONTH

Water	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
All												
Waters C°	10.0	10.0	15.6	21.1	26.7	32.2	32.2	32.2	32.2	25.6	21.1	13.9
Except												
Ohio F°	50	50	60	70	80	90	90	90	90	78	70	57
River												
Main												
Stream C°	10.0	10.0	15.6	21.1	26.7	30.6	31.7	31.7	30.6	25.6	21.1	13.9
Ohio F°	50	50	60	70	80	87	89	89	87	78	70	57
River												

(H) The threshold-odor number attributable to human activities shall not exceed 24 at 40 degrees centigrade tested as described in "Standard Methods for the Examination of Water and Wastewater," 13th Edition, 1971, published by the American Public Health Association, the American Water Works Association, and Water Pollution Control Federation.

(I) Gross beta activity shall not exceed 100 picocuries per liter, nor shall activity from strontium 90 exceed 10 picocuries per liter, nor shall activity from alpha emitters exceed 3 picocuries per liter.

(J) The following chemical pollutants shall not exceed the following specified concentrations at any time:

<u>Storet Number</u>	<u>Constituent*</u>	<u>Concentration</u>	
		<u>mg/l</u>	<u>ug/l</u>
00610	Ammonia	1.5	-
01002	Arsenic	-	50.
01007	Barium	-	800.
01027	Cadmium	-	5.
00940	Chloride	250.	-
01034	Chromium	-	300.
01032	Chromium (hexavalent)	-	50.
01042	Copper	-	500.
00722	Cyanide (free)	0.005	-
00720	Cyanide	0.2	-
00951	Fluoride	1.3	-
38260	Foaming Agents (MBAS)	0.5	-
01046	Iron (dissolved)	-	1000.
01051	Lead	-	40.
01054	Manganese (dissolved)	-	1000.
71900	Mercury	-	.5
00550	Oil & Grease (hexane soluble)	5.	-
32730	Phenols	-	100.
01147	Selenium	-	5.
01077	Silver	-	1.
01092	Zinc	-	1000.

\* Total unless otherwise indicated.



- (K) Pollutants or combinations of pollutants shall not exceed at any time one-tenth of the 96 hour median tolerance limit for any indigenous aquatic species as determined by static or dynamic bioassays in accordance with standard methods described in "Standard Methods for the Examination of Water and Wastewater," 13th Edition, 1971, published by the American Public Health Association, the American Water Works Association, and Water Pollution Control Federation.
- (L) All waters of the state shall be free from substances attributable to human activities which result in sludge deposits, floating materials, color, turbidity, or other conditions in such degree as to create a nuisance.

Existing Water Quality Standards except to the extent preserved by EP-1-05 and EP-1-06 are rescinded.

(Adopted July 27, 1973;  
Effective July 27, 1973)

EP-1-03 Mixing Zones.

- (A) The waters adjacent to a point of discharge of wastewater within the area described in subsection (B) shall be recognized as a "mixing zone." The water quality standards set forth in subsection (C) shall apply to all waters within mixing zones and such waters shall be exempt from all other water quality standards.
- (B) The area within a mixing zone shall be as follows:
  - (1) Except as paragraphs (B) (2) or (B) (3) provide different limits, no mixing zone shall:
    - (a) constitute more than one half of the width of the receiving watercourse nor constitute more than one-third of the area of any cross-section of the receiving watercourse,
    - (b) extend downstream at any time a distance more than five times the width of the receiving watercourse at the point of discharge,
    - (c) exceed twenty-three acres of horizontal area of the Ohio River or twelve acres of horizontal area of any other receiving watercourse,
    - (d) include spawning or nursery areas of any indigenous aquatic species,
    - (e) interdict the migratory routes of any indigenous aquatic species.
    - (f) include a drinking water supply intake, or
  - (2) For watercourses classified as cold water fisheries streams in Section EP-1-04, no mixing zone shall:
    - (a) constitute more than one-third of the width of the receiving watercourse nor constitute more than one fifth of the area of any cross-section of the receiving watercourse,

- (b) extend downstream at any time a distance more than five times the width of the receiving watercourse at the point of discharge,
  - (c) exceed three acres of horizontal area of the receiving watercourse,
  - (d) include spawning or nursery areas of any indigenous aquatic species,
  - (e) interdict the migratory routes of any aquatic species,
  - (f) include a drinking water supply intake.
- (3) No mixing zone in an inland lake shall:
- (a) extend in any direction more than 300 feet from the point of discharge,
  - (b) include hypolimnetic waters,
  - (c) include spawning or nursery areas of any indigenous aquatic species,
  - (d) include a drinking water supply intake.
- (C) The following water quality standards shall apply in mixing zones:
- (1) Except as paragraphs (C) (2) or (C) (3) of this section establish different water quality standards within a mixing zone, the water quality standards shall be as follows:
    - (a) pollutants or combinations of pollutants shall not exceed at any time the 96 hour median tolerance limit for any indigenous aquatic species as determined by static or dynamic bioassays in accordance with standard methods described in "Standard Methods for the Examination of Water and Wastewater," 13th Edition, 1971, published by the American Public Health Association, the American Water Works Association, and Water Pollution Control Federation.

- (b) water temperature shall not exceed the temperature of the receiving watercourse upstream of the mixing zone by more than 15 degrees fahrenheit (8.3 degrees centigrade) during the months of May, June, July, August, September, and October or by more than 23 degrees fahrenheit (12.8 degrees centigrade) during the months of November, December, January, February, March, and April.
- (2) For all waters within mixing zones in watercourses classified as cold water fisheries streams in EP-1-04, the water quality standards shall be as follows:
  - (a) pollutants or combinations of pollutants shall not exceed one-tenth of the 96 hour median tolerance limit for any indigenous aquatic species as determined by static or dynamic bioassays in accordance with standard methods described in "Standard Methods for the Examination of Water and Wastewater," 13th Edition, 1971, published by the American Public Health Association, the American Water Works Association, and Water Pollution Control Federation.
  - (b) water temperatures shall not exceed the temperature of the receiving watercourse upstream of the mixing zone by more than 5 degrees fahrenheit (2.8 degrees centigrade) during the months of May, June, July, August, September, and October or by more than 23 degrees fahrenheit (12.8 degrees centigrade) during the months of November, December, January, February, March and April.
- (3) For all waters within mixing zones in inland lakes, the water quality standards shall be as follows:
  - (a) pollutants or combinations of pollutants shall not exceed the 96 hour median tolerance limit for any indigenous aquatic species as determined by static or dynamic bioassays in accordance with standard methods described in "Standard Methods for the Examination of Water and Wastewater," 13th Edition, 1971,

published by the American Public Health Association, the American Water Works Association, and Water Pollution Control Federation.

- (b) water temperature at any depth shall not exceed natural water temperatures outside the mixing zone by more than 15 degrees fahrenheit (8.3 degrees centigrade) during the months of May, June, July, August, September, and October or by more than 23 degrees fahrenheit (12.8 degrees centigrade) during the months of November, December, January, February, March and April.

Existing Water Quality Standards except to the extent preserved by EP-1-05 and EP-1-06 are rescinded.

(Adopted July 27, 1973;  
Effective July 27, 1973)

EP-1-04     Cold Water Fisheries

- (A) The water quality standards in watercourses classified as cold water fisheries streams in subsection (B) shall be the water quality standards in Section EP-1-02 except that, to the extent that the following paragraphs establish different standards, the latter standards shall apply.
  - (1) Dissolved oxygen shall not be less than six milligrams per liter. In spawning areas dissolved oxygen shall not be less than seven milligrams per liter.
  - (2) pH shall not be less than 6.5 and shall not be more than 9.0.
  - (3) There shall be no variation of water temperature attributable to human activities.
- (B) The following watercourses are hereby classified as cold water fisheries streams (the county designations are for the purpose of identifying the general location of the stream only, and do not limit the classification to a portion of the stream):
  - (1) Mad River and its tributaries upstream of Urbana.
  - (2) Beaver Creek upstream of the confluence with Green Creek (Seneca County).
  - (3) Cold Creek upstream of the confluence with Sandusky Bay (Erie County).
  - (4) Pine Run upstream of the confluence with Mohican River (Ashland County).
  - (5) Turkey Creek upstream of the confluence with Lake Erie (Ashtabula County).
  - (6) Conneaut Creek upstream of the confluence with Lake Erie (Ashtabula County).
  - (7) East Branch of Chagrin River upstream of the confluence with Chagrin River (Geauga County).
  - (8) Apple Creek upstream of the confluence with Spring Run (Wayne County).

- (9) North Fork upstream of the confluence with Little Beaver Creek (Columbiana County).
- (10) Little Pickerel Creek upstream of the confluence with Sandusky Bay (Sandusky County).
- (11) Cross Creek upstream of the confluence with Ohio River (Jefferson County).

Existing Water Quality Standards except to the extent preserved by EP-1-05 and EP-1-06 are rescinded.

(Adopted July 27, 1973;  
Effective July 27, 1973)

EP-1-05 Lake Erie. The water quality criteria adopted by the Water Pollution Control Board on April 11, 1967, for Lake Erie and the interstate waters thereof shall be the water quality standards for the waters to which they apply.

Existing Water Quality Standards except to the extent preserved by EP-1-05 and EP-1-06 are rescinded.

(Adopted July 27, 1973;  
Effective July 27, 1973)



EP-1-06 Mahoning River Basin. The Water Quality Standards for the Mahoning River and its tributaries in Ohio adopted by the Ohio Water Pollution Control Board on July 11, 1972, shall be the water quality standards for those watercourses and inland lakes to which they apply.

Existing Water Quality Standards except to the extent preserved by EP-1-05 and EP-1-06 are rescinded.

(Adopted July 27, 1973;  
Effective July 27, 1973)

EP-1-07 Non-Degradation of High Quality Waters. It is the policy of the Ohio EPA that waters whose existing quality is better than these standards as of July 1, 1973, will be maintained at their existing high quality, pursuant to the Ohio water pollution control statutes, so as not to interfere with or become injurious to any assigned uses made of, or presently possible, in such waters. This will require that any industrial, public or private project or development that would constitute a new source of wastewater discharge or an increased wastewater discharge to high quality waters as part of the initial project design, to provide the most effective waste treatment available under existing technology, as provided in the Regulations of the Ohio EPA governing installation of new sources of wastewater discharge.

Existing Water Quality Standards except to the extent preserved by EP-1-05 and EP-1-06 are rescinded.

(Adopted July 27, 1973;  
Effective July 27, 1973)

WATER POLLUTION CONTROL BOARD  
DEPARTMENT OF HEALTH  
COLUMBUS, OHIO

WATER QUALITY CRITERIA ADOPTED BY THE BOARD APRIL 11, 1967,  
FOR LAKE ERIE AND THE INTERSTATE WATERS THEREOF

The Ohio Water Pollution Control Board hereby adopts the following water quality criteria for Lake Erie and the interstate waters thereof which may affect the State of Michigan, the Commonwealth of Pennsylvania, the State of New York, and the Province of Ontario of the Dominion of Canada.

Water Quality - Conditions and Criteria

All Waters. All the waters considered herein shall meet the following conditions at all times:

- (1) They shall be free from substances attributable to municipal, industrial, or other discharges that will settle to form putrescent or otherwise objectionable sludge deposits;
- (2) They shall be free from floating debris, oil, scum, and other floating materials attributable to municipal, industrial, or other discharges in amounts sufficient to be unsightly or deleterious;
- (3) They shall be free from materials attributable to municipal, industrial, or other discharges producing color, odor, or other conditions in such degree as to create a nuisance; and,
- (4) They shall be free from substances attributable to municipal, industrial, or other discharges in concentrations or combinations which are toxic or harmful to human, animal, plant, or aquatic life.

Lake Erie Water Quality Criteria for Various Uses are: (1) the Stream-Water Quality Criteria for Various Uses adopted by the Ohio Water Pollution Control Board on June 14, 1966, copy attached, which shall apply as a minimum to all Lake Erie waters in Ohio, and (2) the existing lake water quality which shall apply where better than the criteria for streams adopted by the Board. The existing lake water quality shall be as reported by the Federal Water Pollution Control Administration in the chapter on Water Quality in report "Program for Water Pollution Control - Lake Erie - 1967."

Lake Erie outside the established harbors at Lorain, Cleveland, and Ashtabula shall meet the Lake Erie water quality criteria for all uses.

The Lorain, Cleveland, and Ashtabula harbor waters in Lake Erie shall meet the Lake Erie water quality criteria for industrial water supply and aquatic life (A).

WATER POLLUTION CONTROL BOARD  
OHIO DEPARTMENT OF HEALTH  
COLUMBUS, OHIO

RESOLUTION ADOPTED BY BOARD JUNE 14, 1966  
REGARDING CRITERIA OF STREAM-WATER  
QUALITY FOR VARIOUS USES

WHEREAS, The Ohio Water Pollution Control Board, on December 14, 1965, did submit a resolution of intent, in accordance with the Federal Water Quality Act of 1965, that the State of Ohio will, after public hearings, prior to June 30, 1967, adopt such criteria and plans for implementation for interstate waters or portions thereof within the State; and

WHEREAS, Section 6111.03, of the Ohio Revised Code, provides, in part, as follows:

"The water pollution control board shall have power:

(A) To develop programs for the prevention, control and abatement of new or existing pollution of the waters of the state; . . . " and

WHEREAS, Primary indicators of stream-water quality are needed as guides for appraising the suitability of interstate surface waters in Ohio for various uses;

THEREFORE BE IT RESOLVED, That the following stream-water quality criteria and minimum requirements adopted by the Ohio River Valley Water Sanitation Commission, on May 12, 1966, be hereby adopted by the Ohio Water Pollution Control Board, with the understanding that the criteria may be supplemented or adjusted as circumstances dictate:

MINIMUM CONDITIONS APPLICABLE TO  
ALL WATERS AT ALL PLACES AND AT ALL TIMES

1. Free from substances attributable to municipal, industrial or other discharges that will settle to form putrescent or otherwise objectionable sludge deposits;
2. Free from floating debris, oil, scum and other floating materials attributable to municipal, industrial or other discharges in amounts sufficient to be unsightly or deleterious;
3. Free from materials attributable to municipal, industrial, or other discharges producing color, odor or other conditions in such degree as to create a nuisance;
4. Free from substances attributable to municipal, industrial or other discharges in concentrations or combinations which are toxic or harmful to human, animal or aquatic life.

## STREAM-WATER QUALITY CRITERIA

### For Public Water Supply

The following criteria are for evaluation of stream-water quality at the point at which water is withdrawn for treatment and distribution as a potable supply:

1. Bacteria: Coliform group not to exceed 5,000 per 100 ml as a monthly average value (either MPN or MF count); nor exceed this number in more than 20 percent of the samples examined during any month; nor exceed 20,000 per 100 ml in more than five percent of such samples.
2. Threshold-odor Number: Not to exceed 24 (at 60° C.) as a daily average.
3. Dissolved solids: Not to exceed 500 mg/l as a monthly average value, nor exceed 750 mg/l at any time. (For Ohio River water, values of specific conductance of 800 and 1,200 micromhos/cm (at 25°C.) may be considered equivalent to dissolved-solids concentrations of 500 and 750 mg/l.)
4. Chemical Constituents: Not to exceed the following specified concentrations at any time:

<u>Constituent</u>	<u>Concentration (mg/l)</u>
Arsenic	0.05
Barium	1.0
Cadmium	0.01
Chromium (hexavalent)	0.05
Cyanide	0.2
Fluoride	2.0
Lead	0.05
Selenium	0.01
Silver	0.05

5. Radioactive substances: Gross beta activity (in the known absence of Strontium-90 and alpha emitters) not to exceed 1,000 micro-microcuries per liter at any time.

### For Industrial Water Supply

The following criteria are applicable to stream water at the point at which the water is withdrawn for use (either with or without treatment) for industrial cooling and processing:

1. Dissolved oxygen: Not less than 2.0 mg/l as a daily-average value, nor less than 1.0 mg/l at any time.
2. pH: Not less than 5.0 nor greater than 9.0 at any time.

3. Temperature: Not to exceed 95°F. at any time.
4. Dissolved solids: Not to exceed 750 mg/l as a monthly average value, nor exceed 1,000 mg/l at any time. (For the Ohio River water, values of specific conductance of 1,200 and 1,600 micromhos/cm (at 25°C.) may be considered equivalent to dissolved-solids concentrations of 750 and 1,000 mg/l.)

#### For Aquatic Life

(A)\* The following criteria are for evaluation of conditions for the maintenance of a well balanced warm-water fish population at any point in the stream except for areas immediately adjacent to outfalls. In such areas cognizance will be given to opportunities for the admixture of effluents with stream water:

1. Dissolved oxygen: Not less than 5.0 mg/l during at least 16 hours of any 24-hour period, nor less than 3.0 mg/l at any time.
2. pH: No values below 5.0 nor above 9.0, and daily average (or median) values preferably between 6.5 and 8.5.
3. Temperature: Not to exceed 93°F. at any time during the months of May through November, and not to exceed 73°F. at any time during the months of December through April.
4. Toxic substances: Not to exceed one-tenth of the 48-hour median tolerance limit, except that other limiting concentrations may be used in specific cases when justified on the basis of available evidence and approved by the appropriate regulatory agency.

#### For Recreation

The following criterion is for evaluation of conditions at any point in waters designed to be used for recreational purposes, including such water-contact activities as swimming and water skiing:

Bacteria: Coliform group not to exceed 1,000 per 100 ml as a monthly average value (either MPN or MF count); nor exceed this number in more than 20 percent of the samples examined during any month; nor exceed 2,400 per 100 ml (MPN or MF count) on any day.

BE IT FURTHER RESOLVED, That the stream-water quality criteria for aquatic life be supplemented with the following and with the understanding that the criteria may be supplemented or adjusted as circumstances dictate:

(B) The following criteria are for evaluation of conditions for the maintenance of biological growth and for permitting the passage of fish through the water, at any point in the stream, except for areas immediately adjacent to outfalls. In such areas cognizance will be given to opportunities for the admixture of effluents with stream water:

\*(A) added

1. Dissolved oxygen: Not less than 2.0 mg/l as a daily-average value,  
nor less than 1.0 mg/l at any time.
2. pH: Not less than 5.0 nor greater than 9.0 at any time.
3. Temperature: Not to exceed 95°F. at any time.
4. Toxic substances: Not to exceed one-tenth of the 48-hour median  
tolerance limit, except that other limiting concentrations may  
be used in specific cases when justified on the basis of available  
evidence and approved by the appropriate regulatory agency.

WATER POLLUTION CONTROL BOARD  
DEPARTMENT OF HEALTH  
COLUMBUS, OHIO

WATER QUALITY STANDARDS ADOPTED BY THE BOARD JULY 11, 1972,  
FOR THE MAHONING RIVER AND ITS TRIBUTARIES IN OHIO.

The Ohio Water Pollution Control Board hereby adopts water quality standards for the interstate waters of the Mahoning River and its tributaries in Ohio.

MINIMUM CONDITIONS APPLICABLE TO  
ALL WATERS AT ALL PLACES AND AT ALL TIMES

1. Free from substances attributable to municipal, industrial or other discharges, or agricultural practices that will settle to form putrescent or otherwise objectionable sludge deposits.
2. Free from floating debris, oil, scum and other floating materials attributable to municipal, industrial or other discharges, or agricultural practices in amounts sufficient to be unsightly or deleterious.
3. Free from materials attributable to municipal, industrial or other discharges, or agricultural practices producing color, odor or other conditions in such degree as to create a nuisance.
4. Free from substances attributable to municipal, industrial or other discharges, or agricultural practices in concentrations or combinations which are toxic or harmful to human, animal, plant or aquatic life.

PROTECTION OF HIGH QUALITY WATERS

Waters whose existing quality is better than the established standards as of the date on which such standards become effective will be maintained at their existing high quality, pursuant to the Ohio water pollution control statutes, so as not to interfere with or become injurious to any assigned uses made of, or presently possible, in such waters. This will require that any industrial, public or private project or development which would constitute a new source of pollution or an increased source of pollution to high quality waters will be required, as part of the initial project design, to provide the most effective waste treatment available under existing technology. The Ohio Water Pollution Control Board will cooperate with other agencies of the state, agencies of other states, interstate agencies and the Federal Government in the enforcement of this policy.

MIXING ZONES

Mixing zones shall be determined on a case by case basis with the requirement that each mixing zone shall be limited to the greatest practical extent and where possible not to overlap another one. In addition a reasonable zone of passage will be preserved for the movement of fish and other aquaticbiota.



## WATER QUALITY DESIGN FLOW

Where applicable for the determination of treatment requirements the water quality design flow shall be the minimum seven consecutive day average that is exceeded in 90 percent of the years. On the lower main stem of the Mahoning River the regulated flow shown below shall be used for the determination of treatment requirements.

### REGULATED STREAM FLOWS IN THE MAIN STEM OF THE MAHONING RIVER

<u>River Reach</u>	<u>Winter cfs</u>	<u>Summer cfs</u>
1. Eagle Creek to Mosquito Creek	145	315
2. Mosquito Creek to Meander Creek	200	415
3. Meander Creek to Youngstown wastewater treatment plant	225	480
4. Youngstown wastewater treatment plant to Ohio-Pennsylvania stateline	290	515

### STREAM-QUALITY CRITERIA

#### FOR PUBLIC WATER SUPPLY

Waters designated as a source of public water supply will be of such quality that Federal-Drinking Water Standards for finished water can be met by conventional treatment which includes coagulation, filtration and disinfection.

The following criteria are applicable to stream waters used as a potable supply:

1. Bacteria: Coliform group not to exceed 5,000 per 100 ml as a monthly average value (either MPN or MF count); nor exceed this number in more than 20 percent of the samples examined during any month; nor exceed 20,000 per 100 ml in more than five percent of such samples.
2. Threshold-odor number: Not to exceed 24 (at 60 deg. C.) as a daily average.
3. Dissolved solids: Not to exceed 500 mg/l as a monthly average value, nor exceed 750 mg/l at any time.
4. Radioactivity: Gross beta activity not to exceed 1,000 picocuries per liter (pCi/l), nor shall activity from dissolved strontium 90 exceed 10 pCi/l, nor shall activity from dissolved alpha emitters exceed 3 pCi/l.
5. Chemical constituents: Not to exceed the following specified concentrations at any time.

<u>Constituent</u>	<u>Concentration (mg/l)</u>
Arsenic	0.05
Barium	1.0
Cadmium	0.005
Chromium	0.05
(hexavalent)	
Cyanide	0.025
Fluoride	1.0
Lead	0.05
Selenium	0.005
Silver	0.05
Mercury	0.005

#### FOR INDUSTRIAL WATER SUPPLY

The following criteria are applicable to stream waters for use (either with or without treatment) for industrial cooling and processing:

Dissolved solids: Not to exceed 500 mg/l as a monthly average value nor exceed 750 mg/l at any time.

#### FOR AQUATIC LIFE (WARM WATER FISHERY)

The following criteria are for evaluation of conditions for the maintenance of a well-balanced, warm-water fish population. They are applicable at any point in the stream except for the minimum area necessary for the admixture of waste effluents with stream water:

1. Dissolved oxygen: Not less than an average of 5.0 mg/l per calendar day and not less than 4.0 mg/l at any time.
2. pH:
  - A. No values below 6.0 nor above 8.5.
  - B. Daily fluctuations which exceed the range of pH 6.0 to pH 8.5 and are correlated with photosynthetic activity may be tolerated.
3. Temperature:
  - A. No abnormal temperature changes that may affect aquatic life unless caused by natural conditions.
  - B. For the main stem of the Mahoning River (Warren to Lowellville Dam) water temperatures shall not exceed natural levels (as measured by the water quality monitor station at Leavittsburg) by 5° F. during April through November and 10° December through March.
  - C. For all waters except the main stem of the Mahoning River (Warren to Lowellville Dam) the maximum temperature shall not exceed natural temperatures by more than 5° F. provided that at no time shall they exceed those indicated in the following table.

Maximum Temperature in Deg. F. During Month											
Jan.	Feb.	March	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
50	50	60	70	80	90	90	90	90	78	70	57

4. Toxic substances: Not to exceed one-tenth of the 96-hour median tolerance limit, except that other limiting concentrations may be used in specific cases when justified on the basis of available evidence and approved by the appropriate regulatory agency.

#### FOR RECREATION

The following criterion is for evaluation of conditions for waters designated to be used for recreational purposes:

##### PRIMARY CONTACT - (SWIMMING AND WATER-SKIING)

Bacteria: The fecal coliform content (either MPN or MF count) not to exceed 200 per 100 ML as a monthly geometric mean based on not less than five samples per month; nor exceed 400 per 100 ML in more than ten percent of all samples taken during a month.

##### SECONDARY CONTACT - (BOATING, FISHING AND WADING)

Bacteria: The fecal coliform content (either MPN or MF count) not to exceed 1,000 per 100 ML as a monthly geometric mean based on not less than five samples per month; nor exceed 2,000 per 100 ML in more than ten percent of all samples taken during a month.

#### FOR AGRICULTURAL USE AND STOCK WATERING

The following criteria are applicable for the evaluation of stream quality at places where water is withdrawn for agricultural use or stock water purposes:

1. Free from substances attributable to municipal, industrial or other discharges, or agricultural practices that will settle to form putrescent or otherwise objectionable sludge deposits.
2. Free from floating debris, oil, scum and other floating materials attributable to municipal, industrial or other discharges, or agricultural practices in amounts sufficient to be unsightly or deleterious.
3. Free from materials attributable to municipal, industrial or other discharges, or agricultural practices producing color, odor or other conditions in such degree as to create a nuisance.
4. Free from substances attributable to municipal, industrial or other discharges or agricultural practices in concentrations or combinations which are toxic or harmful to human, animal, plant or aquatic life.

### STREAM WATER USES

The stream water uses for the waters of the Mahoning River basin are to be as follows:

1. Mahoning River upstream of Warren and all tributaries
  - a. Primary contact recreation
  - b. Public water supply
  - c. Well-balanced warm water fishery
  - d. Industrial water supply
  - e. Agriculture use and stock watering
2. Mahoning River main stem Warren to Lowellville Dam
  - a. Secondary contact recreation
  - b. Well-balanced warm water fishery
  - c. Industrial water supply
  - d. Agriculture use and stock watering
3. Mahoning River (main stem) Lowellville Dam to Ohio-Pennsylvania stateline
  - a. Primary contact recreation
  - b. Public water supply
  - c. Well-balanced warm water fishery
  - d. Industrial water supply
  - e. Agriculture use and stock watering

Before  
THE ENVIRONMENTAL PROTECTION AGENCY  
of  
THE STATE OF OHIO

In the matter of )  
The adoption of regulations )  
EP-1-01 through EP-1-07, )  
inclusive, in final form, and the )  
rescission of the existing Water )  
Quality Standards except to the )  
extent preserved by EP-1-05 and )  
EP-1-06 )

FINDING AND ORDER

The Director of Environmental Protection, having considered the adoption of proposed regulations EP-1-01 through EP-1-07, inclusive, in final form, and the rescission of existing Water Quality Standards except to the extent preserved by EP-1-05 and EP-1-06, finds:

1. That due notice of public hearing, pursuant to the Administrative Procedure Act, was given, that a public hearing was held on March 26, 1973, and that all persons were afforded an opportunity to be heard; and
2. That upon due consideration, and upon the basis of statements made at the public hearing, the adoption of regulations EP-1-01 through EP-1-07, inclusive, in final form, and the rescission of existing Water Quality Standards except to the extent preserved by EP-1-05 and EP-1-06, are reasonable, within the purview of authority provided by law, and are consistent with public notice.

It is therefore

ORDERED, That said proposed regulations EP-1-01 through EP-1-07, inclusive, in final form, be adopted and that said existing Water Quality Standards except to the extent preserved by EP-1-05 and EP-1-06, be rescinded.

It is further

ORDERED, That the effective date of the new regulations and the rescission of the existing regulations contained in the proposal shall be July 27, 1973.

Issued at Columbus, Ohio

this 27th day of July, 1973



Ira L. Whitman  
Director of Environmental Protection

EP-31-01 Definitions.

- (A) "Act" means Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C.A. Chapter 26, Supplement.
- (B) "Administrator" means the Administrator of the U.S. Environmental Protection Agency.
- (C) "Applicable Water Quality Standards" means all water quality standards which apply under Chapter EP-1 of Ohio EPA Regulations and under Federal Regulations to the waters of the State.
- (D) "Applicable Effluent Standards and Limitations" means all State and Federal effluent standards, and limitations to which a discharge is subject under the Act, including but not limited to, effluent limitations, standards of performance, toxic effluent standards and prohibitions, and pretreatment standards.
- (E) "Applicant" means any person who files for an Ohio NPDES permit.
- (F) "Application" means the form used to apply for an Ohio NPDES permit.
- (G) "Director" means the Director of the Ohio Environmental Protection Agency.
- (H) "Discharge" means discharge of any pollutant or pollutants from a discharge point.
- (I) "Discharge of a pollutant or pollutants" means any addition of any pollutant to waters of the state from a discharge point.
- (J) "Point Source" means any discernible, confined and discrete conveyance, including but not limited to any

pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.

- (K) "NPDES" means National Pollutant Discharge Elimination System.
- (L) "Ohio EPA" means the Ohio Environmental Protection Agency or its Director, as the context or other law or regulations may require.
- (M) "Ohio NPDES Permit" means a permit issued by the State of Ohio for a discharge which is either in compliance with authorized discharge levels or which includes a schedule which will bring the point source into compliance with authorized discharge levels.
- (N) "Pollutant" means sewage, industrial waste or other waste as defined by Section 6111.01 (B) through (D) of the Ohio Revised Code.
- (O) "Person" means the state, any municipal corporation, political subdivision of the state, person as defined in Section 1.59 of the Ohio Revised Code, or interstate body created by compact.
- (P) "Refuse Act Permit Application" means an application for a discharge permit filed under the 1899 Refuse Act.
- (Q) "Regional Administrator" means the Administrator of U.S. Environmental Protection Agency, Region V.

- (R) "Schedule of Compliance" means a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with standards and regulations adopted under Section 6111.041 and 6111.042 of the Ohio Revised Code or compliance with terms and conditions of permits set under division (J) of Section 6111.03 of the Ohio Revised Code.
- (S) "Wastewater treatment facility" means treatment works as defined by Section 6111.01 (F) of the Ohio Revised Code that convey or may convey effluents that will be discharged into the waters of the state.
- (T) "Waters of the State" means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, which are situated wholly or partly within, or border upon, this state, or are within its jurisdiction, except those private waters which do not combine or effect a junction with natural surface or underground waters.



EP-31-02 Ohio NPDES Permit Required.

(A) No person may discharge any pollutant or cause, permit, or allow a discharge of any pollutant without applying for and obtaining an Ohio NPDES permit in accordance with the requirements of this Chapter, EP-31. Any person who holds an NPDES permit issued under Section 402 (a) of the Act is not required to obtain an Ohio NPDES permit until its expiration date. The Director shall administer and enforce permits issued under Section 402 (a) of the Act within this state, and may modify the terms and conditions thereof, in accordance with Section 6111.03 (J) of the Ohio Revised Code.

(B) Each point source shall come under the Ohio NPDES permit system. The Director may issue a single permit covering more than one point source, but authorized discharge levels, monitoring requirements, and other appropriate requirements shall be specified for each point source.

(C) No Ohio NPDES permit shall be required for any discharge exempted from the NPDES permit system by regulations adopted or subsequently amended by the Administrator, including 40 C.F.R. 124.11.

EP-31-03 Permit Applications.

(A) Applications for Ohio NPDES permits shall be filed only on forms approved by the Ohio EPA and shall contain such information as the Ohio EPA deems necessary.

(B) Any person proposing to commence the discharge of pollutants shall file an application at least 180 days prior to commencement of the discharge. Any person who has filed a complete Refuse Act application in timely fashion and whose application has not been denied is not required to apply for a permit under these regulations unless the discharge described in the application for a Refuse Act permit has substantially changed in nature, volume, or frequency. If, however, the discharge described in the Refuse Act permit application has substantially changed in nature, volume, or frequency, the applicant shall complete, sign and submit the appropriate NPDES application form.

(C) Any application that on its face fails to provide the Ohio EPA with requested information needed for ascertaining compliance with the applicable provisions of this Chapter, EP-31, may be considered defective. The Ohio EPA may either request additional information or return the application to the applicant without further processing. An indication of the deficiency shall accompany the application returned.

(D) An application submitted to the Director pursuant to this Chapter shall be signed as follows:

- (1) In the case of a corporation, by a principal executive officer of at least the level of

Vice President, or his duly authorized representative, if such representative is responsible for the overall operation of the facility from which the discharge described in the application originates.

- (2) In the case of a partnership, by a general partner.
- (3) In the case of a sole proprietorship, by the proprietor.
- (4) In the case of a municipal, state, or other public facility, by either the principal executive officer, the ranking elected official or other duly authorized employee.

EP-31-04 Issuance of Ohio NPDES Permits.

(A) Criteria for issuing Ohio NPDES Permits.

(1) If on the basis of all information available to the Ohio EPA, the Director determines that:

- (a) The authorized discharge levels specified in subsection (B) of this section are not being exceeded by the applicant; and
  - (b) Adequate provisions for monitoring to obtain required pollutant discharge information have been made; and
  - (c) If required by the Ohio EPA, performance tests, conducted at the applicant's expense after the application was filed and in accordance with methods prescribed by the Ohio EPA, demonstrate that the discharge is in compliance with the authorized discharge levels,
- the Director shall issue an Ohio NPDES permit for the discharge.

(2) The Director shall deny an application for a permit or renewal thereof if

- (a) the Secretary of the Army determines in writing that anchorage or navigation would be substantially impaired thereby;
- (b) the Director determines that the proposed discharge or source would conflict with an area-wide waste treatment management plan adopted in accordance with Section 203 of the Act;
- (c) the Administrator objects in writing to the issuance or renewal of the permit in accordance with Section 402 (d) of the Act;
- (d) the application is for the discharge of any radiological,

chemical or biological warfare agent, or high-level radioactive waste into the waters of the State.

(3) Schedule of Compliance.

If the Director determines the requirements of paragraph (A)(1) cannot be met, he may grant the point source an Ohio NPDES Permit with a satisfactory schedule of compliance, which shall become a condition of the permit.

(a) A satisfactory schedule of compliance shall include the following elements:

- (i) an enforceable schedule of steps, no two of which shall be separated by more than 9 months, to be taken by the applicant that will bring the discharge into compliance with authorized discharge levels at the earliest possible date but no later than those dates necessary to achieve the objectives set forth in the Act; and
- (ii) such additional steps as the Director shall specify, including interim measures, to eliminate any danger or serious threat of danger to human health and to minimize any deleterious effect on the environment. Such measures may include interim treatment techniques, reduced levels of operations, or the imposition of a connection ban.

(b) No later than fourteen (14) days following each interim date and the final date of compliance the permittee shall provide the Director with written notice of the permittee's compliance or noncompliance with interim or

final requirements.

(4) Possession of an Ohio NPDES Permit shall not relieve any person of the responsibility to comply with the authorized discharge levels specified in the permit or other provisions of applicable law.

(5) If a point source is constructed or should have been constructed pursuant to a Permit to Install under Chapter EP-30 of Ohio EPA Regulations and does not meet authorized discharge levels, the point source may be granted an Ohio NPDES Permit with a satisfactory schedule of compliance which shall become a condition of the permit. Such a permit must require the discharge to come into compliance with authorized discharge levels at the earliest possible date but no later than one year from the date of issuance. If such a discharge is not in compliance with authorized discharge levels at that time, the discharge shall be terminated until it comes into compliance.

(B) Authorized Discharge Levels.

(1) Final Limitations.

(a) Except as provided by paragraph (3), for each point source from which pollutants are discharged, the Director shall determine and specify in the permit the maximum levels of pollutants that may be discharged to insure compliance with

(i) applicable water quality standards, and

(ii) applicable effluent limitations, which shall be the national effluent limitations and guidelines adopted by the Administrator pursuant to Sections 301 and 302 of the Act, and national standards of performance for new sources pursuant to Section

306 of the Act, and national toxic and pretreatment effluent limitations pursuant to Section 307 of the Act, and

- (iii) standards which prohibit significant degradation of the waters of the state, if the point source was installed or should have been installed pursuant to a Permit to Install under Chapter EP-30 of the Ohio EPA Regulations, and
- (iv) any more stringent requirements necessary to comply with a plan for area-wide waste treatment management, approved pursuant to Section 208 (b) of the Act, and
- (v) any more stringent limitations required to comply with any other State or Federal law or regulation, including 40 C.F.R. Section 124.42.

(b) Prior to promulgation of regulations by the Administrator setting forth effluent standards and limitations, or standards of performance pursuant to the Act, the Director may impose standards, limitations, or conditions, in an Ohio NPDES permit necessary to insure compliance with Chapter 6111 of the Ohio Revised Code and the Act.

(2) Interim Limitations. Except as provided in paragraph (3) the Director may establish the maximum levels of pollutants which may be discharged during the period of the compliance program.

(3) Present Discharge Levels. The Director may fix the maximum levels of pollutants specified in an Ohio NPDES permit as either Final Limitations or Interim Limitations at the levels indicated by the applicant as its

current maximum levels of discharge, even where limitations to such discharge levels is not essential to avoid violation of either applicable water quality standards or effluent standards.

(4) Characterization of Discharge Levels. Authorized levels of pollutants that may be discharged shall be stated to the extent possible given the nature of the pollutant in terms of the volume, weight in pounds per day (except for those pollutants not expressible by weight), duration, frequency, and where appropriate, concentration of each pollutant discharge. The Director shall specify average and maximum daily quantitative limitations.

(C) Time for Issuance.

The Director shall issue or deny an application for a permit for a new discharge for the installation or modification of a disposal system, or for renewal of a permit, within 180 days of the date on which he receives a complete application with all plans, specifications, construction schedules, and other pertinent information required by the Director.

(D) Renewal of Permits.

(1) The Director shall notify the permittee that any permittee who wishes to continue to discharge after the expiration date of his Ohio NPDES permit must file for reissuance of the permit at least 180 days prior to its expiration. Except as provided by paragraph (2), Ohio NPDES permits shall be renewed in accordance with the provisions for issuance of permits under this Chapter EP-31, of the Ohio EPA Regulations.

(2) A permit shall not be renewed unless the Director determines that the permittee is making satisfactory progress toward the achievement of all applicable limitations and has complied with the terms and conditions



of the existing permit.

(3) Any point source the construction of which is commenced after the date of enactment of the Act and which is so constructed to meet all applicable standards of performance shall not be subject to any more stringent standard of performance during a 10 year period beginning on the date of completion of such construction or during the period of depreciation or amortization of such facility for the purpose of Section 167 or 169 (or both) of the Internal Revenue Code of 1954 whichever period ends first.

EP-31-05 General Permit Conditions.

(A) Each Ohio NPDES permit shall contain the following requirements:

(1) That all discharges authorized under the NPDES permit shall be consistent with the terms and conditions of the permit. The discharge of any pollutants more frequently than or at a level in excess of that identified and authorized by the permit shall constitute a violation of the terms and conditions of the permit; and

(2) That facility expansions, production increases, or process modification which result in new or increased discharges of pollutants must be reported by submission of a new NPDES application or, if such discharge does not violate effluent limitations specified in the NPDES permit, by submission to the Director of notice of such new or increased discharge of pollutants; and

(3) That the permittee shall submit to the Ohio EPA monthly reports containing such information as shall be specified by the Director; and

(4) That the permittee shall submit an annual report containing such information as shall be specified by the Director; and

(5) That the permittee shall report in such manner as shall be specified by the Director, any discharge of pollutants in violation of permit terms and conditions; and

(6) That the point source is equipped with instrumentation to monitor and record data and other information about the operation of the point source, if required by the Director. Reports of monitoring results obtained by the permittee shall be submitted annually (or on such a more frequent schedule as is required in the permit) to the Ohio EPA. Monitoring and recording of monitoring results shall be conducted in accordance with regulations adopted or subsequently amended by the Administrator, including 40 C.F.R. Sections 124.61 and 126.62.

(7) That the permittee shall allow the Director or his authorized representative to enter upon the permittee's premises. The authorized representative shall have access to any records required to be kept under the terms of the permit and may copy any such records. The Director or his authorized representative shall have access to any monitoring equipment or wastewater treatment facilities operated by the permittee for the purpose of inspecting such equipment or method required in the permit and shall have access to point sources for the purpose of sampling the discharge; and

(8) That the permittee shall maintain in good working order and operate at optimum levels in accordance with good engineering practices any wastewater treatment facilities or control systems installed to achieve compliance with the terms and conditions of the permit regardless of the quality of the effluent; and

(9) That the permittee shall provide adequately trained and qualified personnel as required by Chapter HE-37 of the Ohio EPA Regulations to operate such wastewater treatment facilities; and

(10) That the permittee for a government-owned disposal system, or any other "publicly owned treatment works" as defined in the Act shall

(a) report new introductions of industrial waste or other wastes and substantial changes in volume or character thereof being introduced into such systems or works from "industrial users" as defined in Section 502 of the Act; and

(b) report any new introduction of pollutants into such

treatment works from a source which would be a new source as defined in Section 306 of the Act if such source were discharging pollutants;

- (c) require any industrial user of such treatment works to comply with the requirements of Sections 204(b), 307 and 308 of the Act. The permittee shall require that each industrial user subject to the requirements of Section 307 of the Act submit periodic notice that demonstrates what progress has been made toward full compliance with the requirements of Section 307 of the Act. Such notice shall be forwarded to the Director at intervals not to exceed nine months. Such report or notice shall include information on the quality and quantity of wastes introduced into treatment works or systems and anticipated impact of such change in the quantity or quality of effluent to be discharged.

(11) That the permit may be modified, suspended, or revoked in whole or in part during its term for cause including but not limited to:

- (a) violation of any terms or conditions of the permit;
- (b) obtaining a permit by misrepresentation or failure to disclose fully all relevant facts;
- (c) a change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

(12) That if a toxic effluent standard or prohibition (including a schedule of compliance) is established under Section 307 (a) of the Act for a toxic pollutant which is present in the permittee's discharge

and such standard or prohibition (including a schedule of compliance) is more stringent than any limitation upon such pollutant in the NPDES permit, the Director shall modify the permit in accordance with the toxic effluent standard and so notify the permittee.

(B) The Director may include in an Ohio NPDES permit any other terms or conditions he finds reasonable and appropriate for the prevention and abatement of pollution.

EP-31-06 Modification of Permits at the Request of the Permittee.

(A) Applications for modifications of permits at the request of the permittee shall be made only on forms approved by the Ohio EPA and shall contain such information that the Ohio EPA deems necessary.

(B) Such application shall contain

- (1) a specific description of the relevant provisions of the existing permit,
- (2) the precise changes requested,
- (3) the reasons for the changes requested, and
- (4) an explanation demonstrating that the permit as modified will comply with applicable State and Federal statutes and regulations.

(C) A modification at the request of a permittee shall not be approved unless the Director determines

- (1) that the permit as modified will comply with all applicable State and Federal statutes and regulations, and
- (2) that
  - (a) the permit would have been issued with the provisions contained in the proposed modifications if all information presently available had been available at that time, or
  - (b) valid cause for such revision exists over which the permittee had little or no control, or
  - (c) a good faith modification in the nature of the operation was made.

(3) That the Regional Administrator does not object in writing to such modification within 30 days following receipt of notice from the Director.

EP-31-07 Applicability of Rules of Procedure.

Ohio NPDES permit applications shall be acted upon and challenged in accordance with provisions of the Rules of Procedure Chapter EP-40, of the Ohio EPA Regulations.

EP-31-08 Transfer of Permits.

(A) An Ohio NPDES permit is transferable. The Ohio EPA must be notified in writing sixty (60) days prior to any proposed transfer of an Ohio NPDES permit. The transferee must inform the Ohio EPA that it will assume the responsibilities of the original permittee transferor.

(B) At any time during the sixty (60) day period between notification of the proposed transfer and the effective date of the transfer, the Director may prevent the transfer if he concludes that such transfer will jeopardize compliance with the terms and conditions of the permit. The Director shall notify both the original permittee transferor and the transferee in writing of his decision.



EP-31-09 Termination of Permits.

Each Ohio NPDES permit shall expire as of the date indicated on the permit. No permit shall be issued which will run for a period of more than five (5) years.

EP-31-10 Revocation of Permits.

(A) The Director may revoke a permit at any time if he determines that any applicable laws, rules, regulations or permit terms or conditions have been violated.

(B) The permittee shall be notified of the proposed revocation and reasons for such proposed revocation. The Director shall afford a prompt hearing to any permittee whose permit he proposes to revoke and who requests such a hearing, in accordance with the provisions of the Rules of Procedure, Chapter EP-40 of the Ohio EPA Regulations.

## APPENDIX

### 40 C.F.R. Section 124.11

#### EXCLUSIONS

- (a) Any discharge of sewage from vessels, effluent from properly functioning marine engines, laundry, shower, and galley sink wastes, or any other discharge incidental to the normal operation of a vessel: Provided, that this exclusion shall not be construed to apply to rubbish, trash, garbage, or other such materials discharged overboard; nor to discharges when the vessel is operating in a capacity other than a vessel such as when a vessel is being used as a storage facility or a cannery;
- (b) Water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil or gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the State in which the well is located and if such State determines that such injection or disposal will not result in the degradation of ground or surface water resources;
- (c) Approved aquaculture projects;
- (d) Dredged or fill material discharged into navigable waters;
- (e) Additions of sewage, industrial wastes or other materials into publicly owned treatment works. (This exclusion applies only to the actual addition of materials into the publicly owned treatment works. Plans or agreements to make such additions in the future do not relieve dischargers of the obligation to apply for and receive permits until the dis-

charges of pollutants to navigable waters are actually eliminated. It also should be noted that in all appropriate cases, pretreatment standards promulgated by the Administrator pursuant to section 307 (b) of the Act must be complied with.);

(f) Uncontrolled discharges composed entirely of storm runoff when these discharges are uncontaminated by any industrial or commercial activity, unless the particular storm runoff discharge has been identified by the Regional Administrator, the State water pollution control agency, the Director or an interstate agency as a significant contributor of pollution. (It is anticipated that significant contributors of pollution will be identified in connection with the development of plans pursuant to section 303 (e) of the Act. This exclusion applies only to separate storm sewers. Discharges from combined sewers and bypass sewers are not excluded.)

(g) Any discharge of any pollutant when such discharge conforms with the national contingency plan for removal of oil and hazardous substances, published pursuant to subsection 311 (c) (2) of the Act.

(h) Discharges of pollutants from agricultural and silvicultural activities, including irrigation return flow and run-off from orchards, cultivated crops, pastures, rangelands, and forest lands, except that this exclusion shall not apply to the following:

(1) Discharges from animal confinement facilities, if such

facility or facilities contain, or at any time during the previous 12 months contained, for a total of 30 days or more, any of the following types of animals at or in excess of the number listed for each type of animal:

- (i) 1,000 slaughter and feeder cattle;
  - (ii) 700 mature dairy cattle (whether milkers or dry cows);
  - (iii) 2,500 swine weighing over 55 pounds;
  - (iv) 10,000 sheep;
  - (v) 55,000 turkeys;
  - (vi) If the animal confinement facility has continuous overflow watering, 100,000 laying hens and broilers;
  - (vii) If the animal confinement facility has liquid manure handling systems, 30,000 laying hens and broilers;
  - (viii) 5,000 ducks;
- (2) Discharges from animal confinement facilities, if such facility or facilities contain, or at any time during the previous 12 months contained, for a total of 30 days or more, a combination of animals such that the sum of the following numbers is 1,000 or greater: the number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing over 55 pounds multiplied by 0.4, plus the

number of sheep multiplied by 0.1;

(3) Discharges from aquatic animal production facilities;

(4) Discharges of irrigation return flow (such as tail-water, tile drainage, surfaced groundwater flow or bypass water), operated by public or private organizations or individuals, if:

(i) There is a point source of discharge (e.g., a pipe, ditch, or other defined or discrete conveyance, whether natural or artificial and;

(ii) the return flow is from land areas of more than 3,000 contiguous acres, or 3,000 non-contiguous acres which use the same drainage system; and

(5) Discharges from any agricultural or silvicultural activity which have been identified by the Regional Administrator or the Director of the State water pollution control agency or interstate agency as a significant contributor of pollution.



**REGULATIONS EP-40-01  
THROUGH EP-40-30**

# **RULES OF PROCEDURE**

**ADOPTED  
JUNE 18, 1973  
EFFECTIVE  
JULY 5, 1973**

FILED  
'73 JUN 21 PM 3:49  
U.S. DEPT. OF STATE  
SECRETARY OF STATE  
PER                     

SECRETARY OF STATE  
PER                     

PER in

## FINDING AND ORDER

1. That due notice of public hearing, pursuant to the Administrative Procedure Act, was given, that the hearing was held on March 26, 1973 and that all persons were afforded an opportunity to be heard; and
2. That upon due consideration, and upon the basis of the statements made at the public hearing and in written comments submitted in relation to this matter, the adoption of regulations EP-40-01 through EP-40-30, inclusive, in final form, and the rescission of regulations HEwp-5-01 through HEwp-5-17, inclusive, is reasonable, within the purview of authority provided by law, and is consistent with public notice.

It is therefore

ORDERED, That said proposed regulations EP-40-01 through EP-40-30, inclusive, in final form, be adopted, and that said regulations HEwp-5-01 through HEwp-5-17, inclusive, be rescinded.



It is further

ORDERED, That the effective date of the new regulations and the rescission of the existing regulations contained in the proposal shall be July 5, 1973.

It is further

ORDERED, That three copies of the Finding and Order and three certified copies of the new regulations, in final form, be filed with the Secretary of State as required by law.



---

Ira L. Whitman, Ph.D  
Director of Environmental Protection

Issued at Columbus, Ohio

This 18th day of JUNE 1973.

STATE OF OHIO  
THE ENVIRONMENTAL PROTECTION AGENCY

CERTIFICATION

FILED  
73 JUN 21 5:49  
SECRETARY OF STATE  
PER     

I, Ira L. Whitman, Director of Environmental Protection,  
State of Ohio, do hereby certify that the attached is an  
exact copy of regulations EP-40-01 through EP-40-30,  
inclusive, in final form, adopted by Order of JUNE 18th,  
1973, to become effective July 5th, 1973.

Ira L. Whitman

Ira L. Whitman, Ph.D.  
Director of Environmental Protection

Sworn to and subscribed in my presence by Ira L. Whitman,  
this 18th day of JUNE, 1973.

Mary K. Deverse  
Notary Public

MARY K. DEVERSE  
NOTARY PUBLIC, FRANKLIN COUNTY, OHIO  
MY COMMISSION EXPIRES SEPT. 23, 1975

FILED

'73 JUN 21 8:51:51

THE HONORABLE  
SECRETARY OF STATE

STATE OF OHIO

ENVIRONMENTAL PROTECTION AGENCY

PER \_\_\_\_\_

PROCEDURAL RULES

EP-40-01

APPLICABILITY

(A) These Rules shall govern procedure for all adjudication hearings, public meetings, and other proceedings relating to adjudicatory acts conducted by the Ohio Environmental Protection Agency or by its duly authorized hearing examiners pursuant to Chapters 119, 3704, 3745, 6111, and Sections 1505.07, 1509.081, 3707.42, 3734.02, 6101.13, 6101.39, 6103.17, 6112.02, 6117.34, 6117.46, and 6119.35, Ohio Revised Code, or any other statute requiring an adjudication hearing before the Agency.

(B) These Rules shall be effective 10 days after enactment and shall govern all procedural questions in new or pending proceedings arising thereafter.

Former regulations HEwp-5-01 through HEwp-5-16 inclusive, adopted August 8, 1972, effective August 28, 1972, are rescinded.

(Adopted June 18, 1973; effective July 5, 1973.)

CONSTRUCTION OF RULES AND REGULATIONS

These Rules and regulations shall be construed liberally to accomplish the purposes of the Chapters and Sections of the Ohio Revised Code within the jurisdiction of the Agency, and to afford maximum procedural fairness consistent with just, speedy, and inexpensive resolution of controversies.

Former regulations HEwp-5-01 through HEwp-5-16 inclusive, adopted August 8, 1972, effective August 28, 1972, are rescinded.

(Adopted June 18, 1973; effective July 5, 1973.)

DEFINITIONS

As used herein:

(A) "Act" shall mean any statute administered by the Ohio Environmental Protection Agency.

(B) "Action" shall mean the issuance, modification, or revocation of any lawful order, other than an emergency order; the issuance, denial, renewal, modification, or revocation of a license, permit, lease, variance, or certificate; or the approval or disapproval of plans and specifications pursuant to law or regulation thereunder.

(C) "Adjudication hearing" shall mean an adversary proceeding at which are determined rights, duties, privileges, benefits or legal relationships of a specified person.

(D) "Agency" shall mean the Ohio Environmental Protection Agency.

(E) "Director" shall mean the Director of Environmental Protection of Ohio.

(F) "Fact sheet" shall mean the statement of facts provided for in EP-40-06(A), relative to an application for issuance or renewal of a permit under Section 6111.03(J), Ohio Revised Code.

(G) "Final action" shall mean the decision on any adjudicatory matter when all administrative remedies have been exhausted, or waived by failure timely to pursue such remedies.

(H) "Hearing examiner" shall include the Director when he personally conducts a hearing or performs any other act which hearing examiners are authorized to perform.

(I) "Initiation of hearing proceedings" shall mean the occurrence of that event which requires that an adjudication hearing be held, including but not limited to, a request for a hearing pursuant to Section 3745.07, Ohio Revised Code, service of a verified complaint upon an alleged violator pursuant to Section 3745.08, Ohio Revised Code, and notice of a hearing pursuant to Section 6111.32, Ohio Revised Code.

(J) "Party" shall mean (1) the State or Agency and the applicant or respondent; (2) any person who requests an adjudication hearing pursuant to EP-40-13(A); or (3) any person who intervenes pursuant to Rule EP-40-15.

(K) "Permit", "license", "certificate", or "variance" shall include any provisions, terms, conditions, specifications, requirements, or limitations with which the permittee or licensee must comply, or which affect exercise of the permit or license, whether such provision, terms, conditions, specifications, requirements, or limitations are set forth fully on the permit or license document, appended thereto, or incorporated by reference. All requirements of statute or regulations applicable to the permittee or licensee shall be conditions of such permit, license or variance although not set forth on the permit, license, or variance or appended thereto or incorporated by reference.

(L) "Person" shall mean the State of Ohio, the federal government or agency thereof, any other state or agency thereof, any interstate agency, any municipal corporation, political subdivision, public or private corporation, individual, partnership, or other entity.

(M) "Public meeting" shall mean a non-adversary public hearing, where any person may present written or oral testimony, evidence, opinions and arguments for the record for consideration by the Director in acting upon applications for the issuance or renewal of a permit or variance, and shall include public hearings held pursuant to Section 3704.03(H) of the Ohio Revised Code.

(N) "Verified complaint" shall mean a complaint, the allegations of which are sworn to by the complainant before a notary public.

Former regulations HEwp-5-01 through HEwp-5-16 inclusive, adopted August 8, 1972, effective August 28, 1972, are rescinded.

(Adopted June 18, 1973; effective July 5, 1973.)

HEARING CLERK

(A) The duties of the Hearing Clerk shall be performed by the employee, designated by the Agency as Hearing Clerk, together with such assistants as he may require to accomplish his duties. The Hearing Clerk shall:

(1) Immediately upon initiation of hearing proceedings, open a hearing file and assign a docket number to the proceedings.

(2) Be the custodian of all hearing files for the Agency.

(3) Upon initiation of hearing proceedings, include in the hearing file copies of the proposed action, all notices, the fact sheet where one is required, and all written comments and recommendations received by the Agency.

(4) During the pendency of the proceedings carefully preserve in the hearing file all papers delivered to him for that purpose and all written comments and recommendations pertaining to the proceedings received by the Agency, recording on all such papers the date of receipt thereof.

(5) Permit any person to make a copy of any papers in the hearing file or other files of the Agency in his possession except where such matters are privileged.

(6) Effect all notices pertaining to Agency public meetings and adjudication hearings required by statute, rule, or regulation.

(7) Prepare and certify the record or documents in the hearing file in any instance where certification by the Agency or Director is required by law.

(8) Perform such other duties as are assigned to him by the Director.

(B) The acceptance of papers or documents for filing or the commission of any other act by the Hearing Clerk shall not be construed as an admission by the Agency of the validity or proper filing of such paper or of compliance with any procedural requirements imposed by statute or regulation.

Former regulations HEwp-5-01 through HEwp-5-16 inclusive, adopted August 8, 1972, effective August 28, 1972, are rescinded.

(Adopted June 18, 1973; effective July 5, 1973.)



(A) Except as provided in Section EP-40-05(D), in all actions of the Agency, the Director shall prepare and give notice to the parties of a proposed action without an adjudication hearing. The proposed action shall be in the same form as, and include all elements of, a final action and where issuance of permits is proposed, shall include a proposed permit. Any person may file comments or request an adjudication hearing as provided by these Rules. The Director may hold a public meeting on an application for a permit or variance or renewal thereof prior to the issuance of a proposed action.

(B) If no adjudication hearing is held, or if no public meeting is held subsequent to the issuance of a proposed action, the Director, after consideration of all written comments submitted within thirty days of public notice of the proposed action, or such longer period specified in the public notice, shall: (1) issue the proposed action as his final action; (2) permit the proposed action to become final if the proposed action provides that the proposed action will become final unless withdrawn by the Director prior to the expiration of a specified period of time; or (3) withdraw the proposed action and issue a revised proposed action. A revised proposed action shall be treated in all respects as a proposed action except that the Agency need not hold further public meetings.

(C) The Director may withdraw a proposed action at any time before the proposed action becomes final.

(D) Notwithstanding the provisions of EP-40-05(A) above, the Director may issue a final action without a hearing where the rules of the Agency or the statutes pertaining to the Agency specifically give a right to appeal to the Environmental Board of Review and also give the appellant a right to a hearing de novo on such appeal, and where no statutory provision or regulation prohibits such action from being effective before persons permitted by statute or regulation to participate in an adjudication hearing have been afforded an opportunity for a hearing.

Former regulations HEwp-5-01 through HEwp-5-16 inclusive, adopted August 8, 1972, effective August 28, 1972, are rescinded.

(Adopted June 18, 1973; effective July 5, 1973.)

EP-40-06 FACT SHEETS

(A) Before the Director issues a proposed action on any application for issuance or renewal of a permit pursuant to Section 6111.03(J), Ohio Revised Code, for a discharge which has a total volume of more than 500,000 gallons on any day, the Agency shall prepare a fact sheet which shall include:

(1) A sketch or detailed description of the location of the discharge described in the application;

(2) A quantitative description of the discharge described in the application which includes at least the following:

- (a) The rate, quantity, and character of the proposed discharge; if the discharge is continuous, the average daily flow in gallons per day or million gallons per day.
- (b) For thermal discharges, the average summer and winter temperatures in degrees Fahrenheit; and
- (c) The average daily discharge in pounds per day of any pollutants which are present in significant quantities or which are subject to limitations or prohibition under applicable water quality or effluent standards.

(3) The proposed action of the Director including the terms, specifications, conditions, and limitations of any permit proposed to be issued;

(4) Description of the uses for which the receiving waters have been classified, if any, and identification of the applicable water quality and effluent standards;

(5) Description of the procedures for the formulation of final determinations including:

- (a) The period, not to be less than thirty days, in which the public may comment upon the proposed action;
- (b) Procedures for requesting a public meeting or adjudication hearing and the nature and procedure of such meetings and hearings; and
- (c) Any other procedures by which the public may participate in the formulation of the final determinations.

(6) Instruction to persons desiring to be included on the mailing list provided for in subsection (B).

(B) The Agency shall maintain a mailing list of persons or groups requesting fact sheets prepared for any specified application for issuance or renewal of a permit under Section 6111.03(J) and persons or groups requesting to receive notice of further proceedings relating to such application, copies of additional fact sheets prepared, or other information relating to such application. The Agency, and after commencement of hearing proceedings the Hearing Clerk, shall add any person or group to any such list upon receipt from such person or group of a request for inclusion thereon specifying the application or proceedings about which notices, additional fact sheets, or other information is desired.

Former regulations HEwp-5-01 through HEwp-5-16 inclusive, adopted August 8, 1972, effective August 28, 1972, are rescinded.

(Adopted June 18, 1973; effective July 5, 1973.)

NOTICES

(A) The Agency shall give public notice of all applications for issuance, modification, or renewal of permits, licenses, variances, and of proposed actions, actions, verified complaints, public meetings and adjudication hearings. Such notice shall be:

(1) Published once in a newspaper having general circulation in the county in which the source or facility is located. This notice may be summary in form specifying the source or facility involved, the owner, the type of action proposed if any, and the address of the Agency from which further information, including the full notice, may be obtained.

(2) Mailed, on or before the date of publication, by first class mail to all persons on the current mailing list of subscribers maintained by the Director pursuant to Section 3745.07, Ohio Revised Code. This notice may be summary in form specifying the source or facility involved, the owner, the type of action proposed, and the address of the Agency from which further information, including the full notice, may be obtained.

(3) Mailed on or before the date of publication to any person who has requested notice concerning the source or facility or the owner thereof, or who has requested a copy of the application, the proposed action or the fact sheet.

(4) In the case of any proposed action for issuance or renewal of a permit under Section 6111.03(J), Ohio Revised Code, mailed on or before the date of publication to any state, interstate, federal, or local governmental agency having jurisdiction over waters which may be affected by the Agency's action.

(B) For purposes of determining the time of notice, public notice is complete upon publication as required in subparagraph (A) (1) above.

(C) After receipt by the Agency of a completed application for issuance, modification, or renewal of a permit, license, certificate, or variance or filing of a verified complaint under Section 3745.08, notice thereof shall be mailed within one week and published within ten days. In all cases, notice of hearings and public meetings shall be given at least thirty days prior to the date of hearing or meeting. Notices of proposed actions shall be given at least thirty days before such proposed action becomes final.

(D) Notice shall be given by certified mail to all parties and objectors under Section 3745.07 of the time, place, and hearing examiner for hearings; and by first class mail for any other proceedings.

(E) Notice of a proposed action shall be given to the person applying for issuance, modification, or renewal of a permit, license, certificate, or variance, or the person who will be subject to the proposed orders by certified mail, return receipt requested, with instructions to the delivering postal employee to show to whom delivered, date of delivery, and address where delivered. Such notice shall inform the affected person of his right to, and opportunity for, an adjudication hearing. Such notice shall be complete upon receipt of or upon refusal to accept the certified mail notice.

(F) Failure to give notice as required by EP-40-07 will invalidate any action of the Director only if such failure to give notice is raised by (1) the applicant or respondent, or (2) any person permitted by statute or regulation to participate as a party in a proceeding before the Director.

Former regulations HEwp-5-01 through HEwp-5-16 inclusive, adopted August 8, 1972, effective August 28, 1972, are rescinded.

(Adopted June 18, 1973; effective July 5, 1973.)

(A) Public notices of proposed actions for issuance, or renewal of permits under Section 6111.03(J), Ohio Revised Code, shall include:

(1) The name of the Agency and the address and telephone number of the facilities where Agency files and records pertaining to the application are located and may be inspected and copied, and instructions for persons desiring to obtain additional information or a copy of any fact sheet prepared or of the proposed permit; and instructions to persons desiring to be included on the mailing list provided for in EP-40-06(B).

(2) The name and address of the applicant.

(3) A brief description of the applicant's activities or operations which result in the discharge described in the application.

(4) The location of the source or operation including the waterway to which each discharge is made, and a short description of the location of each discharge on the waterway indicating whether such discharge is a new or an existing discharge.

(5) A statement of the Director's proposed action to issue or deny the permit for the discharge described in the application.

(6) A statement:

(a) that the proposed action of the Director shall become final on the effective date specified in the proposed action unless (1) an adjudication hearing is requested or (2) the Director revises or withdraws the proposed action after consideration of the record of a public meeting or written comments, or upon disapproval by the Administrator of the United States Environmental Protection Agency;

(b) that any person may submit a written statement within thirty days as to why the Director should revise the proposed action;

(c) that if significant public interest is shown a public meeting may be held on motion of the Director prior to issuance of any final action; and

(d) that following final action by the Director any party has rights of appeal to the Environmental Board of Review.

(B) Public notices of all public meetings and adjudication hearings relating to applications for issuance, modification or renewal of permits under Section 6111.03(J), Ohio Revised Code, shall include:

(1) The name of the Agency and the address and telephone number of the facilities where Agency files and records pertaining to the application are located and may be inspected and copied, and instructions for persons desiring to obtain additional information or a copy of any fact sheet prepared or of the proposed permit; and instructions to persons desiring to be included on the mailing list provided for in EP-40-06(B).

(2) The name and address of the applicant.

(3) The location of the source or operation including the waterway to which each discharge is made and a short description of the location of each discharge on the waterway including whether such discharge is a new or an existing discharge;

(4) The identification number and date of issuance of the notice of the proposed action of the Director issued pursuant to EP-40-08(A).

(5) The date, time, and location of the public meeting or hearing.

(6) A concise statement of the issues raised by the party requesting the public meeting or adjudication hearing.

(7) A statement that evidence may be presented by the applicant, the state, and other parties, and that following presentation of such evidence other interested persons may present testimony of facts or statements of opinion, and that if they wish to present testimony at an adjudication hearing such testimony will be subject to the right of cross-examination by parties to the proceeding.

(8) A statement that the purpose of the public meeting or hearing is to obtain additional evidence and that statements concerning the issues raised by the party requesting the hearing are invited.

(C) Public notice of verified complaints filed pursuant to Section 3745.08, Ohio Revised Code, or complaints filed pursuant to Section 6111.32, Ohio Revised Code, shall include to the extent known to the Agency:

(1) The name of the agency and the address and telephone number of the facilities where further information may be obtained and agency files and records pertaining to the proceedings may be inspected and copied.

(2) The name and address of the party filing the complaint.

(3) The name and address of the person against whom the complaint was filed.

(4) A short description of the location of the source or operation, including for discharges to waters of the State, the waterway to which the discharge is made.

(5) A brief description of the activities or operations of the party against whom the complaint was filed as they pertain to the controversy.

(6) A statement that any person within thirty days may submit a written statement to the Director concerning the facts or opinions relating to the matter raised in the complaint.

(7) A statement that any person may request notice concerning further actions pursuant to the complaint, including the outcome of the proceedings.

(D) All other public notices from the Agency shall include to the extent known to the Agency:

(1) The name of the agency and the address and telephone number where further information may be obtained and agency files and records pertaining to the proceedings may be inspected and copied.

(2) The name and address of the person responsible for the source.

(3) The location of the source, including for discharges to waters of the State the waterway to which the discharge is made.



(4) A statement that any person within thirty days may submit a written statement to the Director concerning facts or opinions relating to the action or proposed action.

(5) A statement that any person may request notice concerning further actions or proceedings.

(E) Where multiple notices for several actions are mailed or published together with duplicate information, any information which is required by this Rule to be contained in more than one such notice need not be repeated in each notice but may be contained in a separate document mailed or published with and referred to in each notice to which it applies.

(F) Notwithstanding any other provision in this section, notice of a proposed action to modify any action of the Director shall include a statement of the proposed modification together with references to the action proposed to be modified and identification numbers of earlier notices or fact sheets relating to such action, and no additional information need be included in the notice of proposed action to modify.

Former regulations HEwp-5-01 through HEwp-5-16 inclusive, adopted August 8, 1972, effective August 28, 1972, are rescinded.

(Adopted June 18, 1973; effective July 5, 1973.)

NOTICE OF WATER PERMIT APPLICATIONS

TO GOVERNMENT AGENCIES

(A) The notice required by EP-40-07(A)(4) to be given to state and governmental agencies shall include:

(1) The information required in EP-40-08 for public notices, and may include a copy of such public notice.

(2) A statement that such state or agency may submit written recommendations to the Director, and to the Regional Administrator of the United States Environmental Protection Agency, which the Director may incorporate into the permit if issued and that if the recommendation of the state or agency is not incorporated in the final action of the Director, a written explanation of his reasons for not accepting the recommendation will be provided that state or agency and the Regional Administrator of the United States Environmental Protection Agency.

(3) A copy of the fact sheet and a statement that a copy of the application for a permit or of the proposed permit including all ancillary papers will be provided upon request.

(B) The notice required by EP-40-07(A)(4) shall also be given, when applicable, to:

(1) Any agency responsible for an "Areawide Waste Treatment Management Plan" pursuant to Section 208(b) of the Federal Water Pollution Control Act Amendments of 1972.

(2) Any agency responsible for the preparation of a plan pursuant to an approved continuous planning process under Section 303(e) of the Federal Water Pollution Control Act Amendments of 1972.

(3) Public health agencies for the purpose of assisting the applicant in coordinating the applicable requirements of the Act with any applicable requirements of such public health agencies.

Former regulations HEwp-5-01 through HEwp-5-16 inclusive, adopted August 8, 1972, effective August 28, 1972, are rescinded.

(Adopted June 18, 1973; effective July 5, 1973.)

COORDINATION OF WATER POLLUTION CONTROLACT PERMIT PROGRAM WITH AGENCIES OF THEUNITED STATES

(A) (1) Upon the Director's issuing a proposed action on an application to issue or renew a permit under Section 6111.03(J), Ohio Revised Code, the Agency shall transmit by certified mail a copy of the permit to the Regional Administrator of the United States Environmental Protection Agency, unless by written agreement the Regional Administrator has waived his right to receive, review, object to or comment upon such proposed permit. If within 90 days, the Regional Administrator in writing objects to the issuance of such permit as being outside the requirements of the Federal Water Pollution Control Act, the Director shall withdraw the permit and give notice of a revised proposed action. The Director may withdraw a permit and give notice of a revised proposed action after consideration of written comments or recommendations of the Regional Administrator at any time before the date upon which the proposed action will become final.

(2) Immediately following final issuance, modification, or renewal of a permit under Section 6111.03(J), Ohio Revised Code, the Agency shall transmit by first class mail a copy thereof, to the Regional Administrator.

(B) At the time of issuance of public notice of an application for issuance, modification, or renewal of a permit pursuant to Section 6111.03(J), Ohio Revised Code, for a discharge which has or will have a total volume of more than 500,000 gallons on any day, the Agency shall transmit a copy of the fact sheet to the District Engineer of the United States Army Corps of Engineers, for the District in which the discharge is located unless by written agreement such District Engineer has waived his right to receive a fact sheet for such discharge.

Former regulations HEwp-5-01 through HEwp-5-16 inclusive, adopted August 8, 1972, effective August 28, 1972, are rescinded.

(Adopted June 18, 1973; effective July 5, 1973.)

EP-40-11 FILING OF PAPERS

(A) An original and two copies of all papers shall be filed with the Hearing Clerk, and copies shall be served upon all parties. If a party is represented by an attorney, service shall be made upon the attorney.

(B) All items except copies of documents filed in the proceedings shall be on eight and one-half by eleven inch paper and shall be entitled "Before the Ohio Environmental Protection Agency" and shall be styled with the name of the applicant or respondent, as the case may be (e.g., "In the Matter of \_\_\_\_\_, Applicant" or In the Matter of \_\_\_\_\_, Respondent"), and shall set forth the docket number of the case except where no docket number has been assigned.

(C) All papers shall be deemed filed upon receipt by the Hearing Clerk.

(D) In computing any period of time prescribed for filing and serving a document, the day upon which the document or notice of the action to be contested or answered was received, or the day of any other event after which the designated period of time begins to run, is not to be included. The last day of the period so computed is to be included unless it is a Saturday, Sunday, or legal holiday in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday. When the time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays, or legal holidays shall be excluded in the computation.

(E) Any request for an extension of time must be filed within the time allowed for the filing or serving of the document with the Agency.

(F) Papers filed with the Hearing Clerk shall not be considered by the Hearing Examiner unless proof of service is endorsed thereon. The proof of service shall state the date and manner of service and shall be signed by the party filing such paper or his attorney.

(G) All papers filed by a party shall be typewritten and shall have typed or printed thereon the name, address, and telephone number of the party or his attorney if he has one. If a party is represented by a firm of attorneys, a particular attorney within the firm having primary responsibility for the case shall be indicated on such paper. All papers filed shall be signed by the party or his counsel.

Former regulations HEwp-5-01 through HEwp-5-16 inclusive, adopted August 8, 1972, effective August 28, 1972, are rescinded.

(Adopted June 18, 1973; effective July 5, 1973.)

(A) Within thirty days of notice of the Director's proposed action to issue or renew a permit, any person may request or petition for a public meeting for presentation of evidence, statements, or opinions.

(B) If the Director determines that there is significant public interest in a proposed action or where required to do so by statute or regulation, the Director shall hold a public meeting in the county where the source or facility affected is located, or in a contiguous county, at which meeting interested persons may submit written or oral statements and present evidence concerning the proposed action. If an adjudication hearing is held on the same proposed action, the Director may hold such meeting and hearing so that one proceeding will commence immediately following the close of the other, or hold such meeting and hearing on separate occasions. In the consideration of an application for issuance or renewal of a permit or variance, the Director may hold a public meeting prior to issuance of a proposed action.

(C) In any public meeting, the Director may appoint a Hearing Examiner to conduct such meeting. On the date and at the time and place specified in the notice, the public meeting shall be held, at which any person (1) may appear and be heard in person or by his attorney, or both; (2) may present his position, arguments, or contentions orally or in writing; and (3) may, in the discretion of the Director or Hearing Examiner, question or examine persons who appear to present positions, arguments, or contentions at such meeting.

(D) Comments received or evidence or statements presented at a public meeting held pursuant to this Rule shall be considered by the Director, who shall issue a proposed action, or, if the public meeting was held subsequent to the issuance of a proposed action, may withdraw the proposed action or issue a revised proposed action. A revised proposed action shall be treated in all respects as a proposed action under these Rules, except that the Agency need not hold further public meetings.

Former regulations HEwp-5-01 through HEwp-5-16 inclusive, adopted August 8, 1972, effective August 28, 1972, are rescinded.

(Adopted June 18, 1973; effective July 5, 1973.)

HEARINGS AND OBJECTIONS

(A) An adjudication hearing shall be held in accordance with these Rules (1) upon receipt of a request for a hearing from the applicant within thirty days of notice of the proposed action, or (2) upon receipt of an objection by any person pursuant to Section 3745.07, Ohio Revised Code.

(B) All requests for adjudication hearings shall be in writing. Proposed actions together with requests for adjudication hearings shall constitute the pleadings for hearings held pursuant to these rules. All requests for adjudication hearings shall state the questions to be considered at the requested hearing, enumerating the specific findings, orders, or actions of the Agency objected to, and shall state reasons why such provisions of the proposed action are contested. Failure to comply with this subsection shall constitute a default. If a party desires to request that an adjudication hearing be held at a specific time or place, such request shall be included in the hearing request.

(C) When an adjudication hearing is duly requested, or when an objection requesting a hearing is duly made pursuant to Section 3745.07, Ohio Revised Code, the proposed action shall not be considered an action of the Director, but a proposal upon which evidence is to be heard.

(D) The person filing an objection requesting an adjudication hearing pursuant to Section 3745.07, Ohio Revised Code, shall be a party to the hearing and the Agency may participate in the hearing actively or refrain from active participation permitting the other parties to prosecute the proceedings.

(E) If the opportunity for an adjudication hearing is not availed of within the requisite time period, all persons entitled to request a hearing shall be deemed to have waived all rights to a hearing and all rights to contest the Director's action, and they shall be deemed to have consented to the proposed action which shall become final and as valid as if a hearing had been held at which sufficient reliable, probative, and substantial evidence had been presented in support thereof.

Former regulations HEwp-5-01 through HEwp-5-16 inclusive, adopted August 8, 1972, effective August 28, 1972, are rescinded.

(Adopted June 18, 1973; effective July 5, 1973.)



(A) Adjudication hearings shall be conducted before a Hearing Examiner except where the Director determines to hear the case.

(B) Immediately upon receiving notice of initiation of the hearing proceedings from the Hearing Clerk, the Chief Hearing Examiner shall assign a Hearing Examiner to the case.

(C) The Hearing Examiner shall conduct hearings in such a manner as to prevent unnecessary delay, maintain order, and ensure the development of a clear and adequate record.

(D) The authority of the Hearing Examiner shall include, but not be limited to, authority to:

- (1) Administer oaths and affirmations;
- (2) Issue subpoenas to require the attendance of witnesses at hearings and depositions;
- (3) Compel all parties to state their positions in writing with respect to the controversy;
- (4) Examine witnesses and direct witnesses to testify;
- (5) Make rulings on the admissibility of evidence;
- (6) Make rulings on procedural motions, whether such motions are oral or written;
- (7) Hold conferences to discuss settlement or for the simplification of issues pursuant to EP-40-10;
- (8) Request the parties or their attorneys to file suggested findings, orders, conclusions of law and briefs before or following the hearing and within such time limits as he may determine;
- (9) Request any party or counsel to prepare entries, findings, or orders;
- (10) Take such other action as may be necessary to accomplish the purposes of subsection (C).

(E) The Hearing Examiner shall have such other powers, duties, and authority as are granted by statute or rules.

(F) The Hearing Examiner shall include in his recommendations to the Director a short statement of his reasons for each ruling on all written motions. All rulings on evidence and motions shall be subject to review by the Director.

(G) The Director or his authorized representative shall schedule adjudication hearings. In scheduling hearings consideration shall be given to:

(1) Providing adequate time for all parties to prepare for the hearing;

(2) Any request by a party relating to the time and location of the hearing;

(3) The advisability of combining adjudication hearings and public meetings.

Former regulations HEwp-5-01 through HEwp-5-16 inclusive, adopted August 8, 1972, effective August 28, 1972, are rescinded.

(Adopted June 18, 1973; effective July 5, 1973.)

(A) Any person may file a motion for leave to intervene in an adjudication hearing conducted under these Rules. A motion must set forth the grounds for the proposed intervention and the position and interest of the movant in the proceedings. A motion shall be accompanied by a pleading setting forth the matter for which intervention is sought. Movant shall serve a copy of the motion and pleading upon the parties as provided in Rule EP-40-17.

(B) A motion for leave to intervene in a hearing must ordinarily be filed prior to the commencement of the first prehearing conference, or, if no prehearing conference is held, fifteen (15) days prior to commencement of the hearing. Any motion filed after that time must contain, in addition to the information set forth in subsection (A) of this Rule, a statement of good cause for the failure to timely file the motion and shall be granted only upon a finding (1) that extraordinary circumstances justify the granting of the motion; or (2) that the intervenor shall be bound by agreements, arrangements, and other matters previously made in the proceeding.

(C) Leave to intervene will be freely granted. The factors to be considered by the Hearing Examiner in granting leave to intervene shall include, where relevant: (1) the nature and extent of the movant's interest in the subject matter of the hearing and the degree to which the disposition of the hearing may as a practical matter impair or impede his ability to protect that interest; (2) the adequacy of the representation of movant's interest by existing parties; (3) the relationship of movant's interest to the subject matter of the hearing; (4) the avoidance of multiplicity of suits; (5) whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties; (6) the contribution the movant may make to the just determination of the issues.

(D) In any hearing in which intervention is granted under this Rule, the Hearing Examiner, in the interest of just and expeditious adjudication, may impose reasonable conditions or restrictions on the extent of the intervenor's participation in the proceedings.

Former regulations HEwp-5-01 through HEwp-5-16 inclusive, adopted August 8, 1972, effective August 28, 1972, are rescinded.

(Adopted June 18, 1973; effective July 5, 1973.)

EP-40-16 (RESERVED)

(A) All applications to the Hearing Examiner concerning procedural relief, including determinations of jurisdiction, shall be by motion which, unless made before the Hearing Examiner with a hearing stenographer in attendance, shall be made in writing. A written motion shall state with particularity the relief or order sought and shall be accompanied by a memorandum setting forth the grounds therefor.

(B) Within ten days after service of a motion, or such other time as fixed by the Hearing Examiner, any party may file and serve an answer to a motion. A movant may reply to an answer only with the permission of the Hearing Examiner. Procedural motions shall not cause delay of a hearing without a finding by the Hearing Examiner that good cause for such delay exists.

(C) Before deciding a written motion, the Hearing Examiner shall consider all memoranda filed. He shall file his written decision, including the procedural order issued, with the Hearing Clerk and shall serve copies on all parties. His ruling on all oral motions shall be included in the transcript except that he may elect to take the motion under advisement and issue a written ruling later.

(D) All decisions on procedural motions shall be subject to review by the Director upon review of the report of the Hearing Examiner.

Former regulations HEwp-5-01 through HEwp-5-16 inclusive, adopted August 8, 1972, effective August 28, 1972, are rescinded.

(Adopted June 18, 1973; effective July 5, 1973.)

A hearing may be continued or postponed by the Hearing Examiner or the Director upon his own motion, or upon written motion of any party for good cause shown. Before granting any continuance consideration shall be given to harm to the public welfare or the environment which may result from delay in the proceedings.

Former regulations HEwp-5-01 through HEwp-5-16 inclusive, adopted August 8, 1972, effective August 28, 1972, are rescinded.

(Adopted June 18, 1973; effective July 5, 1973.)

(A) Upon written notice by the Hearing Examiner to all parties, the parties or their attorneys may be directed to appear at a specified time and place for a conference, presided over by the Hearing Examiner, prior to or during the course of the hearing, to consider such matters as the Hearing Examiner shall direct; including, but not limited to:

- (1) The settlement of the controversy;
- (2) The simplification of the issues;
- (3) The disclosure of names, identities and location of witnesses together with a brief statement of what is proposed to be established by the testimony of each;
- (4) The limitation of the number of and the exchange of reports of expert witnesses expected to be called by either party;
- (5) Obtaining
  - (a) admissions of fact;
  - (b) stipulations as to the admissibility into evidence of documents and other exhibits to avoid unnecessary proof;
- (6) The exchange of documentary evidence to be submitted at the hearing.

(B) The Hearing Examiner may require the parties to prepare prehearing briefs prior to or subsequent to the prehearing conference covering such matters as he may specify.

(C) The proceedings at a prehearing conference shall be off-the-record, except that the Hearing Examiner may prepare, or order prepared, a prehearing conference report encompassing the agreements reached and decisions made at the prehearing conference, including any admissions, stipulations, or proposals agreed to. All offers of settlement, proposals of adjustment, and proposed stipulations not agreed to shall be privileged, shall not constitute admissions, and shall not be admissible in evidence against the person making the offer or proposal.

(D) If at a prehearing conference or at any other time prior to the termination of the hearing the parties agree to a settlement, the Hearing Examiner may recommend in writing to the Director that the settlement terms be adopted as a final order; or the parties may prepare a suggested consent order, signed by the parties other than the Agency, which may be submitted along with the file to the Director for adoption after consideration of all materials in the file.

(E) The parties may meet together at such other times as they shall mutually agree for purposes of accomplishing any of the objects listed in (A) and (D) above.

Former regulations HEwp-5-01 through HEwp-5-16 inclusive, adopted August 8, 1972, effective August 28, 1972, are rescinded.

(Adopted June 18, 1973; effective July 5, 1973.)



(A) Any party may serve interrogatories upon another party and take the deposition of witnesses within or without the State in the same manner as is prescribed in the Civil Rules and may require the production of such books, records, and papers as it desires and for that purpose may obtain from the Hearing Examiner a subpoena or a subpoena duces tecum, as in criminal cases.

(B) The files, books, and records of the Agency, other than communications with the Attorney General, materials or information obtained or prepared for use in pending hearing proceedings, materials or information not available for public inspection pursuant to regulation, and materials or information privileged pursuant to statutory provisions relating to trade secrets, shall be made available by the Agency during regular business hours for review and copying by any person, whether or not hearing proceedings are pending. The Agency shall provide facilities for the inspection of all Agency files and a machine or device for the copying of papers and documents for which it may charge a fee commensurate with the cost to the Agency of providing such equipment. A record of the location of all files in use by State employees and removed from such facility for that purpose shall be maintained and any such State employee shall permit any person to see such file upon request.

(C) No subpoena duces tecum shall be issued to compel production of the files, books, and records of the Agency for purposes of an adjudication hearing unless the Hearing Examiner finds that a person has been refused access to said records.

(D) No adjudication hearing shall be continued to a date more than sixty days after initiation of the hearing proceedings for the purpose of allowing a party to take depositions unless the Hearing Examiner finds in writing that the party requesting the continuance diligently pursued discovery but was unable to complete the taking of depositions by the unusual complexity of the case.

(E) Parties shall cooperate in conducting discovery procedures with a view to accomplish full and complete disclosure of all relevant facts. Informal consultation among parties concerning depositions shall be attempted before filing of formal motions to compel discovery.

(F) When the Hearing Examiner finds that some other form of discovery provided for in the Civil Rules is desirable for just, prompt and efficient administration of the hearing, he may authorize additional discovery, subject to such conditions, including time limitations, as are in the public interest.

(G) All costs of service, mileage, witness fees and other costs of discovery shall be borne by the party requesting such discovery. Witness and mileage fees shall be the same as paid by the Common Pleas Courts of Ohio in criminal cases.

Former regulations HEwp-5-01 through HEwp-5-16 inclusive, adopted August 8, 1972, effective August 28, 1972, are rescinded.

(Adopted June 18, 1973; effective July 5, 1973.)

(A) The Hearing Examiner shall admit all relevant and material evidence, except evidence that is unduly repetitious, even though inadmissible under the rules of evidence applicable to judicial proceedings. The weight to be given evidence shall be determined by its reliability and probative value. In all hearings the testimony of witnesses shall be taken orally, except as provided by these rules or by the Hearing Examiner. Parties shall have the right to cross-examine a witness who appears at the hearing.

(B) If a party objects to the admission or rejection of any evidence, he shall state briefly the grounds for such objection. The transcript shall include any argument or debate thereon, unless the Hearing Examiner, with the consent of all parties, orders that such argument not be transcribed. The ruling of the Hearing Examiner on any objection shall be a part of the transcript. An automatic exception to that ruling will follow.

(C) A copy of each documentary exhibit filed with the Hearing Examiner shall be furnished to each other party. A true copy of an exhibit may, in the discretion of the Hearing Examiner, be substituted for the original.

(D) Whenever evidence is deemed inadmissible, the party offering such evidence may make an offer of proof, which shall be included in the transcript. The offer of proof for excluded oral testimony shall consist of a brief statement describing the nature of the evidence excluded. If the evidence consists of a document or exhibit, it shall be inserted in the record in total. In the event the Director decides that the Hearing Examiner's ruling in excluding the evidence was erroneous, the hearing may be reopened to permit the taking of such evidence, or, where appropriate, the Director may evaluate the evidence and proceed to a final decision.

(E) Official notice may be taken of such matters as are within the expertise of the Hearing Examiners, provided, however, that the parties shall be given adequate opportunity to show that such facts are erroneously noticed.

(F) Any person other than a party or a witness presented by a party may present oral or written arguments or opinions for the record. Oral or written arguments or opinions shall not be considered as evidence of the factual assertions made therein. Such persons may present evidence by testifying as witnesses or presenting other witnesses under oath; the parties may cross-examine all such witnesses. Such persons shall not examine or cross-examine witnesses other than their own, shall not be permitted to subpoena witnesses, and shall call no witnesses who request not to testify.

(G) Parties or other persons may file proposed findings and orders, conclusions of law, or briefs for consideration by the Hearing Examiner within fourteen days following completion of the hearing or such other period of time as the Hearing Examiner may set.

Former regulations HEwp-5-01 through HEwp-5-16 inclusive, adopted August 8, 1972, effective August 28, 1972, are rescinded.

(Adopted June 18, 1973; effective July 5, 1973.)

EP-40-22 DIRECTOR NOT TO BE A WITNESS

The Director, the Assistant Director, and the Deputy Directors of the Agency, because of their duties in deciding, or aiding the Director in deciding, adjudicatory matters, shall not be competent witnesses nor subject to deposition in any adjudication hearing before the Agency. Evidence from other persons relating to the mental processes of these persons deciding adjudicatory matters shall not be admissible.

Former regulations HEwp-5-01 through HEwp-5-16 inclusive, adopted August 8, 1972, effective August 28, 1972, are rescinded.

(Adopted June 18, 1973; effective July 5, 1973.)

(A) (1) The burden of proof at all hearings with respect to applications, permits, licenses, variances, and certificates shall be upon the applicant.

(2) The burden of proof at all hearings with respect to affirmative State action shall be upon the State.

(3) Notwithstanding anything to the contrary in (A)(1) or (A)(2) above, there shall be a legal presumption in favor of facts asserted by a party that can be disproved by evidence available to and under the control of an opposing party. In order to rebut this presumption, the party having control of such evidence must show that the nonexistence of the presumed fact is more likely than the existence of such fact.

(B) (1) All reports filed by a party with the Agency in compliance with requirements of statutes, regulations, or permits shall be admissible without further authentication if the custodian of such reports certifies its identity in writing. Any party may prove by a preponderance of the evidence that such reports are not genuine.

(2) All reports of samples taken by staff members of the Agency and tested in facilities of the State shall be admissible if all persons who had custody of such samples have endorsed a record showing a chain of custody and the persons who had custody of such sample need not testify. Mailing of samples shall not be considered a break in the chain of custody. Any party may prove by a preponderance of the evidence that such report does not pertain to the sample purportedly tested.

Former regulations HEwp-5-01 through HEwp-5-16 inclusive, adopted August 8, 1972, effective August 28, 1972, are rescinded.

(Adopted June 18, 1973; effective July 5, 1973.)

OR PRESIDING OFFICER

(A) Within forty-five days following receipt of the transcript of an adjudication hearing and upon due consideration of the competent evidence admitted at the hearing, the oral arguments, and the briefs, if any, the Hearing Examiner shall submit to the Director by filing with the Hearing Clerk a written report setting forth findings of fact, conclusions of law, and recommendations of the action to be taken by the Director.

A copy of the written report and recommendations of the Hearing Examiner shall be mailed to all parties or their attorneys by certified mail within five days after the submission of such report to the Director. Any party or interested person shall have the right to submit to the Director, within ten days of receipt of such copy of such written report and recommendations, a written statement of objections to such written report and recommendations, which written statement of objections shall be considered by the Director before approving, modifying, or disapproving such recommendations. All such submissions to the Director shall be filed with the Hearing Clerk.

(B) Within fifteen days after the conclusion of a public meeting, the presiding officer shall prepare, and submit to the Director, a brief summary of the evidence, testimony, and opinions presented.

Former regulations HEwp-5-01 through HEwp-5-16 inclusive, adopted August 8, 1972, effective August 28, 1972, are rescinded.

(Adopted June 18, 1973; effective July 5, 1973.)

(A) A record of all proceedings shall be maintained at the expense of the Agency. Such record shall include a stenographic record of all testimony, oral statements and oral arguments, all rulings on the admissibility thereof, and all proffers of evidence ruled inadmissible after timely objection. The record shall also include all exhibits, documents, papers, requests, objections, comments, written statements, correspondence and briefs filed by parties to the proceedings or presented by persons interested in the proceedings, a copy of the proposed action, copies of all public notices pertaining to the proceedings, the fact sheet where the Agency is required to prepare one, and the report and recommendations of the Hearing Examiner.

(B) The record shall be the exclusive basis for decision by the Director. The Director, upon his own motion or motion of a party, may permit the introduction of further documentary evidence, and after granting opportunity to the opposing party for preparation, may take additional testimony or remand the matter to the Hearing Examiner for the taking of additional testimony. In deciding whether to permit the taking of additional testimony the Director shall give consideration to harm to the public welfare or the environment which may result from delay in the hearing proceedings.

Former regulations HEwp-5-01 through HEwp-5-16 inclusive, adopted August 8, 1972, effective August 28, 1972, are rescinded.

(Adopted June 18, 1973; effective July 5, 1973.)



EP-40-26 FINAL ACTION

(A) Not less than ten days after service of the written report of the Hearing Examiner upon the parties, the Director shall take final action based on the record, including such additional evidence as he shall order admitted, by issuing a written decision.

(B) The written decision of the Director may adopt the report of the Hearing Examiner, or parts thereof. When the decision of the Director disapproves or modifies the recommendations of the Hearing Examiner in whole or in part, the Director's written decision shall include:

(1) The reasons for rejecting the recommendations of the Hearing Examiner.

(2) Findings of fact and conclusions of law together with the reasons therefor with respect to all matters where the Director does not adopt the recommendations of the Hearing Examiner.

(C) The decision of the Director shall be entered on the Journal and into the record of the hearing and certified copy thereof together with a statement of the time and method by which an appeal may be perfected shall be served within five days of the Director's action upon the parties by certified mail, return receipt requested. Copies of the decision or order shall be served on all attorneys of record in the proceedings by ordinary mail.

Former regulations HEwp-5-01 through HEwp-5-16 inclusive, adopted August 8, 1972, effective August 28, 1972, are rescinded.

(Adopted June 18, 1973; effective July 5, 1973.)

EP-40-27, AGENCY JOURNAL

The Agency shall maintain a Journal or Journals in which all final actions taken by the Director shall be entered.

Former regulations HEwp-5-01 through HEwp-5-16 inclusive, adopted August 8, 1972, effective August 28, 1972, are rescinded.

(Adopted June 18, 1973; effective July 5, 1973.)

REGISTERS OF CURRENT AND PAST ACTIONS

(A) The Agency shall maintain a register, indexed according to the name of the permit holder, applicant or respondent and by the County in which the source or facility is located, of all pending applications for permits, leases, licenses, variances, certificates, and for approval of plans and specifications, of all hearing proceedings pending, and of all other proposed actions not yet finalized, which register shall state the docket number, the dates on which such matter was filed, the hearing date and other relevant dates, and shall identify the files containing materials pertaining to the proceedings.

(B) The Agency shall maintain a register of all adjudicatory actions of the Agency indexed as required by (A) above, stating the date for the permit or orders where applicable, the hearing docket number if one was assigned, and identifying Agency files containing pertinent information.

(C) The registers maintained pursuant to (A) and (B) above shall be conveniently located, available to the public during reasonable hours, and shall be maintained in compliance with the provisions of EP-40-20(B).

Former regulations HEwp-5-01 through HEwp-5-16 inclusive, adopted August 8, 1972, effective August 28, 1972, are rescinded.

(Adopted June 18, 1973; effective July 5, 1973.)

(A) When the Director has determined that an emergency exists and has ordered that action be taken as is necessary to meet the emergency pursuant to Section 6111.06(C), Ohio Revised Code, any person to whom such order is directed may request a hearing. Notwithstanding that a hearing has been requested, emergency orders shall be effective immediately. Immediately upon receipt of such application the Director or Chief Hearing Examiner shall forthwith appoint a Hearing Examiner who shall convene a hearing within forty-eight hours to consider the issues raised by the hearing request. To obtain necessary evidence, the hearing examiner may continue the hearing, but shall reconvene the hearing as soon as possible and not later than twenty days after the hearing request unless the issues become moot. The Director shall give priority to consideration of the hearing examiner's report and shall not await written objections of the parties before issuing his decision. To the extent that other sections of this Chapter conflict with this section or would cause delay in an emergency hearing, they shall not be applicable to proceedings under this section.

(B) Proceedings pursuant to the declaration of an air pollution emergency under Section 3704.032, Ohio Revised Code, shall not be subject to these procedural rules.

Former regulations HEwp-5-01 through HEwp-5-16 inclusive, adopted August 8, 1972, effective August 28, 1972, are rescinded.

(Adopted June 18, 1973; effective July 5, 1973.)

In order to avoid all possibilities of prejudice, real or apparent, to the public interest and persons involved in proceedings pending before the Agency, the following rules of ethics shall be observed after the initiation of hearing proceedings:

(A) No party shall submit any ex parte, off-the-record communication to the Director, or to the Agency staff, or to the Hearing Examiner, about any matter in issue in an adjudicatory proceeding; and the Director, the Agency staff participating in the proceeding, and the Hearing Examiner shall not request or entertain any such ex parte, off-the-record communication.

(B) All communications prohibited by EP-40-30(A) above, shall be reported immediately to the Hearing Examiner who shall place the communication or a memorandum thereof in public files associated with the case, but separate from the record material upon which the Agency will rely in reaching a decision. The Hearing Examiner shall take such additional action as he deems advisable which may include recommending entry of a default on the part of the party guilty of the malfeasance.

(C) The Director and members of the Agency staff shall not offer opinions about any matter in issue in an adjudicatory proceeding to any other party thereto or such party's attorneys, at any time after hearing proceedings have been initiated.

(D) A Hearing Examiner shall at any time disqualify himself if for any reason he may not be able to preside in a fair and impartial manner and render an impartial report to the Director, or if he receives or has during the previous two years, received ten percent or more of his gross personal income for a calendar year, including retirement benefits, consultant fees, and stock dividends (except that income from the State or from diversified investments where he does not know the identity of the primary sources of income shall not be included as contributing toward such percentage), from the applicant or respondent, or any subsidiary or owner thereof. To disqualify himself, a Hearing Examiner shall file an affidavit stating the reason for disqualification.

(E) In the exercise of adjudicatory functions, Hearing Examiners shall behave in the manner prescribed for judges generally in the Canons of Judicial Ethics of the Supreme Court of Ohio which Canons are hereby expressly incorporated by reference.

Former regulations HEwp-5-01 through HEwp-5-16 inclusive, adopted August 8, 1972, effective August 28, 1972, are rescinded.

(Adopted June 18, 1973; effective July 5, 1973.)